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GOVERNMENT OF INDIA

REFORMS OFFICE

THE UNREPEALED CENTRAL ACTS

WITH

CHRONOLOGICAL TABLE AND INDEX

VOLUME IX

From 1931 to 1937, both inclusive



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1939

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PREFACE.

The Acts included in this Volume are printed generally as modified up to the 31st December, 1937; but the repeals recently effected by the Repealing Act, 1938 (I of 1938), have also been taken into account in preparing the text as well as the Chronological Table.

2. The various amending Acts passed by the Indian Legislature in the years 1936 and 1937 are shown in the Chronological Table but not reproduced in the Volume. The amendments and repeals made by those Acts having been given effect to in the appropriate places, it was considered unnecessary, in the interests of economy, to reprint the text of those Acts.

K. SUNDARAM, I.C.S.,
Officer on Special Duty, Reforms Office,
Government of India.

NEW DELHI,
1st April, 1938.

LIST OF ABBREVIATIONS USED.

A O.	for	Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.
B & O.	„	Bihar and Orissa
Ben.	„	Bengal.
Bom.	„	Bombay.
Brit. Enact, I. S.	„	British Enactments in force in Indian States.
Ch.	„	Chapter
Cl.	„	Clause.
Coll. Stat. Ind	„	Collection of Statutes relating to India.
C P.	„	Central Provinces.
E. B. & A.	„	Eastern Bengal and Assam
Gen. R & O.	„	General Statutory Rules and Orders.
G G in C.	„	Governor General in Council
G. G. of India in C.	„	Governor General of India in Council.
G in C.	„	Governor in Council.
G. of I.	„	Government of India.
Govt.	„	Government
Ins	„	Inserted.
L G.	„	Local Government.
Mad.	„	Madras.
N. W. F. P.	„	North-West Frontier Province.
Pt.	„	Part.
R and O.	„	Rules and Orders
Reg.	„	Regulation.
Rep.	„	Repealed.
S.	„	Section.
Sch.	„	Schedule.
Subs.	„	Substituted.
U. P.	„	United Provinces.

CHRONOLOGICAL TABLE OF THE UNREPEALED CENTRAL ACTS, 1931-1937.

1 Year.	2 No.	3 Short title.	4 Page.
1931	I	The Punjab Criminal Procedure Amendment (Supplementary) Act, 1931.	1
	..	The Indian Finance Act, 1931[1]	2
	XIV	The Salt (Additional Import Duty) Act, 1931 .	2
	XVI	*The Provisional Collection of Taxes Act, 1931* .	4
	XX	The Sheriff of Calcutta (Powers of Custody) Act, 1931.	5
	XXIII	The Indian Press (Emergency Powers) Act, 1931 .	6
	..	*The Indian Finance (Supplementary and Extending) Act, 1931.*[1]	19
1932	VIII	The Bengal Criminal Law Amendment (Supplementary) Act, 1932.	20
	IX	The Indian Partnership Act, 1932 . . .	21
	XI	The Public Suits Validation Act, 1932 . . .	43
	XII	The Foreign Relations Act, 1932	44
	XIII	The Sugar Industry (Protection) Act, 1932 . .	45
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	XX	The Port Haj Committees Act, 1932 . . .	88
	XXII	The Tea Districts Emigrant Labour Act, 1932 .	97
	XXIII	The Criminal Law Amendment Act, 1932 . .	115
	XXIV	The Bengal Suppression of Terrorist Outrages (Supplementary) Act, 1932.	118
1933	II	The Children (Pledging of Labour) Act, 1933 . .	119
	VII	The Indian Finance Act, 1933	120
	IX	The Provincial Criminal Law Supplementing Act, 1933	123
	XIII	The Safeguarding of Industries Act, 1933 . .	Not printed.[2]
	XVII	The Indian Wireless Telegraphy Act, 1933 . .	125
	XXIII	The Murshidabad Estate Administration Act, 1933	127

[1] Governor General's Act. No number was given.
[2] Spent

CHRONOLOGICAL TABLE OF THE UNREPEALED CENTRAL ACTS, 1931-1937—*contd.*

[1] Governor General's Act. No number was given.
[2] *See* Preface to this Volume.

CHRONOLOGICAL TABLE OF THE UNREPEALED CENTRAL ACTS, 1931-1937—*contd.*

1 Year.	2 No.	3 Short title.	4 Page
1936—*contd.*	VII	The Indian Aircraft (Amendment) Act, 1936	Not printed.[1]
	VIII	The Factories (Amendment) Act, 1936	Not printed [1]
	IX	The Indian Lac Cess (Amendment) Act, 1936	Not printed [1]
	X	The Indian Tariff (Amendment) Act, 1936	Not printed [1]
	XI	The Indian Mines (Amendment) Act, 1936	Not printed [1]
	XII	The Indian Tariff (Second Amendment) Act, 1936	Not printed [1]
	XIII	The Indian Tea Cess (Amendment) Act, 1936	Not printed [1]
	XIV	The Geneva Convention Implementing Act, 1936	430
	XV	The Indian Rubber Control (Amendment) Act, 1936	Not printed [1]
	XVI	The Bangalore Marriages Validating Act, 1936	431
	XVII	The Indian Tea Control (Amendment) Act, 1936	Not printed [1]
	XVIII	The Red Cross Society (Allocation of Property) Act, 1936.	432
	XIX	The General Clauses (Amendment) Act, 1936	Not printed [1]
	XX	The Chittagong Port (Amendment) Act, 1936	Not printed [1]
	XXI	The Code of Civil Procedure (Amendment) Act, 1936.	Not printed [1]
	XXII	The Indian Companies (Amendment) Act, 1936	Not printed.[1]
	XXIII	The Durgah Khawaja Saheb Act, 1936	433
	XXIV	The Cantonments (Amendment) Act, 1936	Not printed [1]
1937	I	The Agricultural Produce (Grading and Marking) Act, 1937.	438
	II	The Indian Naval Armament (Amendment) Act, 1937	Not printed [1]
	III	The Land Customs (Amendment) Act, 1937	Not printed [1]
	IV	The Indian Income-tax (Amendment) Act, 1937	Not printed.[1]
	V	The Indian Lac Cess (Amendment) Act, 1937	Not printed.[1]
	VI	The Arbitration (Protocol and Convention) Act, 1937.	441
	VII	The Workmen's Compensation (Amendment) Act, 1937.	Not printed.[1]

[1] *See* Preface to this Volume.

CHRONOLOGICAL TABLE OF THE UNREPEALED CENTRAL ACTS, 1931-1937—*concld.*

1 Year.	2 No.	3 Short title.	4 Page.
1937—*contd.*	VIII	The Code of Civil Procedure (Amendment) Act, 1937.	Not printed.[1]
	IX	The Code of Civil Procedure (Second Amendment) Act, 1937.	Not printed.[1]
	X	The Indian Electricity (Amendment) Act, 1937 .	Not printed.[1]
	XI	The Indian Boilers (Amendment) Act, 1937 . .	Not printed.[1]
	XII	The Contempt of Courts (Amendment) Act, 1937 .	Not printed.[1]
	XIII	The Indian Tea Cess (Amendment) Act, 1937 .	Not printed.[1]
	XIV	The Indian Limitation (Amendment) Act, 1937 .	Not printed.[1]
	..	The Indian Finance Act, 1937[2]	448
	XV	The Indian Army (Amendment) Act, 1937 . .	Not printed.[1]
	XVI	The Code of Civil Procedure (Third Amendment) Act, 1937.	Not printed.[1]
	XVII	The Indian Red Cross Society (Amendment) Act, 1937.	Not printed.[1]
	XVIII	The Hindu Women's Rights to Property Act, 1937 .	451
	XIX	The Arya Marriage Validation Act, 1937 . .	452
	XX	The Repealing and Amending Act, 1937 . .	Not printed.[1]
	XXI	The Indian Tariff (Amendment) Act, 1937 . .	Not printed.[1]
	XXII	The Payment of Wages (Amendment) Act, 1937 .	Not printed.[1]
	XXIII	The Petroleum (Berar Extension) Act, 1937 . .	452
	XXIV	The Rules and Regulations Continuance Act, 1937 .	453
	XXV	The Federal Court Act, 1937	454
	XXVI	The Muslim Personal Law (*Shariat*) Application Act, 1937.	454
	XXVII	The Indian Tariff (Second Amendment) Act, 1937 .	Not printed.[1]
	XXVIII	The Indian Securities (Amendment) Act, 1937 .	Not printed.[1]
	XXIX	The Indian Mines (Amendment) Act, 1937 . .	Not printed.[1]

[1] *See* Preface to this Volume
[2] Governor General's Act. No number was given.

THE

UNREPEALED CENTRAL ACTS

VOLUME IX.

CORRIGENDA.

Page 129 : In line 38 *for* " hereinafter " *read* " hereafter ".

Page 179 : *Omit* lines 25 and 26 and *after* line 35 *insert*—

" [5][(3) In this section, references to bank notes include references to Burma notes] "

Page 191 : In line 37 *for* " arrear " *read* " area ".

Page 205 : In line 12 *for* " [1][Central Government]" *read* " [4][Central Government] ".

Page 255 : In line 7 *after* " hour ; " *insert* " or ".

Page 264 : In line 11 *after* " of " *insert* " a ".

Page 322 : In the entries in the second column against item 49, *after* " Napkins " *insert*—

" Pillow cases ".

Act, 1930.

3. (1) Any person convicted on a trial held by Commissioners under the local Act may appeal to the High Court of Judicature at Lahore, and such appeal shall be disposed of by the High Court in the manner provided in Chapter XXXI of the Code. Appeals and confirmations.

(2) When the Commissioners pass a sentence of death, the record of the proceedings before them shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court which shall exercise, in respect of such proceedings, all the powers conferred on the High Court by Chapter XXVII of the Code.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 7.

THE INDIAN FINANCE ACT, 1931.[1]

[30th March, 1931.]

[Not printed.][2]

THE SALT (ADDITIONAL IMPORT DUTY) ACT, 1931.

ACT NO. XIV OF 1931.[3]

[5th April, 1931.]

An Act to impose a temporary additional duty of customs on foreign salt.

WHEREAS it is expedient in the interests of the Indian salt industry to impose a temporary additional duty of customs on the import of foreign salt and at the same time to make provision for safeguarding the interests of consumers of salt; It is hereby enacted as follows:—

Short title, extent and duration.

1. (*1*) This Act may be called the Salt (Additional Import Duty) Act, 1931.

(*2*) It extends to the whole of British India.

(*3*) It shall have effect only up to the [4][30th day of April, 1938].

Definition of maund.

2. In this Act a "maund" means a maund of eighty-two and two-sevenths pounds avoirdupois.

Additional duty of customs on salt.

3. [5][(*1*)] Save as hereinafter provided, there shall be levied and collected, in addition to any duty of customs imposed by or under any enactment for the time being in force, an additional duty of customs on salt imported into

---

[1] The Act was made by the Governor General under the provisions of s. 67B of the G. of I. Act. No number was given. For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 85.

[2] Ss. 3 and 4 of the Act were rep. by the Indian Tariff Act, 1934 (32 of 1934), s. 13 and ... vere ... ning ... 1st ... the ... nder ... tte, 1932, Pt. II, p. 322.

[4] ... It was extended by ... 31st March, 1933, by ... by Act 10 of 1934; ... Act 2 of 1936.

[5] The original s. 3 was re-numbered as sub-section (*1*) of that section by Act 7 of 1932, s. 3.

any port in British India [1]* * * at the rate of [2][one] and a half annas per maund.

[3][(2) Notwithstanding anything contained in section 4 of the Indian Finance (Supplementary and Extending) Act, 1931, the additional duty of customs imposed by that section shall not be levied or collected in respect of the additional duty of customs on salt imposed by sub-section *(1)*.]

4. If the [4][Central Government] is satisfied, after such inquiry as [5][it] thinks fit, that salt not manufactured in India is being imported into British India at such a price as is likely to render insufficient the benefits intended to be afforded to the Indian salt industry by the additional duty imposed by section 3, [5][it] may, by notification in the [6][Official Gazette], increase such duty to such extent, not exceeding one anna per maund, as [5][it] thinks fit. Power to impose further additional duty.

5. *(1)* The additional duty imposed by section 3, and any further duty which may be imposed under section 4, shall not, save as hereinafter provided, be levied and collected on salt produced in India. Exemption of Indian salt from additional duties.

(2) The [4][Central Government] may at any time require any producer of salt in India to enter into an undertaking, within such time as the [4][Central Government] may specify, that he will, when so required from time to time by the prescribed authority, sell to the [7][Central Government] fine white salt of the quality usually made by such producer.

(3) In making a requisition under sub-section *(2)* the prescribed authority may specify, in such manner as may be reasonable in the circumstances of the case,—

(*a*) the amount of salt to be sold,

(*b*) the port or ports where such salt is to be delivered, and

(*c*) the time within which the salt is to be delivered at the port or ports of delivery.

(4) The price to be paid for such salt delivered free of charge at the port of delivery shall be [8][fifty rupees] per hundred maunds at the port of Calcutta, and at any other port shall be [8][fifty rupees] per hundred maunds with an addition or deduction, as the case may be, on account of the difference between the freight from the port of shipment to Calcutta and the freight from the port of shipment to the port of delivery.

(5) If any producer of salt required to enter into an undertaking under sub-section *(2)* fails to enter into such undertaking within the time specified,

[1] The words "except Aden and Perim" rep. by the A. O.

[2] Subs by the Salt Additional Import Duty (Extending) Act, 1936 (2 of 1936), s. 3, for the word "two", which had been subs. by the Salt Additional Import Duty (Extending) Act, 1933 (6 of 1933), s. 3, for the word "four".

[3] Ins. by the Salt Additional Import Duty (Extending) Act, 1932 (7 of 1932), s. 3

[4] Subs. by the A O. for "G. G in C."

[5] Subs. by the A. O. for "he".

[6] Subs. by [illegible]

[7] Subs. by [illegible]

[8] Subs. by [illegible] the words "fift[illegible] the words "sixty-three rupees eleven annas".

or, having entered into such undertaking, fails in the opinion of the [1][Central Government] to fulfil it, the [1][Central Government] may, by notification in the [2][Official Gazette], direct that all salt produced by such producer shall, on being taken by sea into any port in British India, be chargeable with the additional duty imposed by section 3 and with any further additional duty which may be imposed under section 4.

Power to make rules.

6. The [1][Central Government] may, by notification in the [2][Official Gazette], make rules—

(*a*) prescribing the form of undertaking to be entered into by producers of salt under section 5,

(*b*) determining the prescribed authorities for the purposes of that section; and

(*c*) generally, to give effect to the provisions of this Act.

THE PROVISIONAL COLLECTION OF TAXES ACT, 1931.

ACT NO. XVI OF 1931.[3]

[28th September, 1931.]

An Act to amend the law providing for the immediate effect for a limited period of provisions in Bills relating to the imposition or increase of duties of customs or excise.

WHEREAS it is expedient to amend the law providing for the immediate effect for a limited period of provisions in Bills relating to the imposition or increase of duties of customs or excise; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Provisional Collection of Taxes Act, 1931.

Definition.

2. In this Act, a "declared provision" means a provision in a Bill in respect of which a declaration has been made under section 3.

Power to make declarations under this Act.

3. Where a Bill to be introduced in the [4][Central Legislature] on behalf of Government provides for the imposition or increase of a duty of customs or excise, the [1][Central Government] may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 110.
[4] Subs. by the A. O. for "Indian Legislature".

4. (*1*) A declared provision shall have the force of law immediately on the expiry of the day on which the Bill containing it is introduced.

Effect of declarations under this Act, and duration thereof.

(*2*) A declared provision shall cease to have the force of law under the provisions of this Act—

(*a*) when it comes into operation as an enactment, with or without amendment, or

(*b*) when the [1][Central Government], in pursuance of a motion passed by either Chamber of the [2][Central Legislature], directs, by notification in the [3][Official Gazette], that it shall cease to have the force of law, or

(*c*) if it has not already ceased to have the force of law under clause (*a*) or clause (*b*), then on the expiry of the sixtieth day after the day on which the Bill containing it was introduced.

5. (*1*) Where a declared provision comes into operation as an enactment in an amended form before the expiry of the sixtieth day after the day on which the Bill containing it was introduced, refunds shall be made of all duties collected which would not have been collected if the provision adopted in the enactment had been the declared provision:

Certain refunds to be made when declarations cease to have effect.

Provided that the rate at which refunds of any duty may be made under this sub-section shall not exceed the difference between the rate of such duty proposed in the declared provision and the rate of such duty in force when the Bill was introduced.

(*2*) Where a declared provision ceases to have the force of law under clause (*b*) or clause (*c*) of sub-section (*2*) of section 4, refunds shall be made of all duties collected which would not have been collected if the declaration in respect of it had not been made.

6. [*Repeal.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE SHERIFF OF CALCUTTA (POWERS OF CUSTODY) ACT, 1931.

ACT NO. XX OF 1931.[4]

[*1st October, 1931.*]

An Act to extend the powers of the Sheriff of Calcutta to hold persons in lawful custody.

WHEREAS it is expedient to extend the powers of the Sheriff of Calcutta to hold persons in lawful custody for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Sheriff of Calcutta (Powers of Custody) Act, 1931.

Short title.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Indian Legislature".
[3] Subs. by the A. O. for "Gazette of India".
[4] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 104.

Extension of the powers of custody of the Sheriff in certain cases.

2. (*1*) Where the Sheriff of the High Court of Judicature at Fort William in Bengal in the discharge of his duties is taking any person in his lawful custody to or from the Presidency Jail, and circumstances are such that he is unable without undue inconvenience to proceed by a route lying wholly within the local limits of the ordinary original civil jurisdiction of the said High Court, it shall be lawful for the Sheriff to proceed by any convenient route lying partly outside the said local limits, and in so doing his custody of such person shall continue to be lawful.

(*2*) For the purposes of this section "the Sheriff of the High Court of Judicature at Fort William in Bengal" includes any officer or other person acting with the authority or under the orders of the said Sheriff.

Retrospective effect.

3. This Act shall have retrospective effect as if it had commenced on the 1st day of September, 1925.

THE INDIAN PRESS (EMERGENCY POWERS) ACT, 1931.

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SECTIONS.

SECTIONS.

ACT NO. XXIII OF 1931.[1]

[*9th October, 1931.*]

An Act to provide [2][for the better control of the press].

WHEREAS it is expedient to provide [2][for the better control of the press]; It is hereby enacted as follows.—

1. (*1*) This Act may be called the Indian Press (Emergency Powers) Act, 1931. **Short title, extent and duration.**

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, pp. 14, 101 [illegible]

(*2*) It extends[1] to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.

[2]* * * * * *

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;

(*2*) "document" includes also any painting, drawing or photograph or other visible representation;

(*3*) "High Court" means the highest Civil Court of Appeal for any local area except in the case of the Province of Coorg where it means the High Court of Judicature at Madras;

(*4*) "Magistrate" means a District Magistrate or Chief Presidency Magistrate;

(*5*) "newspaper" means any periodical work containing public news or comments on public news;

(*6*) "news-sheet" means any document other than a newspaper containing public news or comments on public news or any matter described in sub-section (*1*) of section 4;

(*7*) "press" includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;

(*8*) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing;

(*9*) "unauthorised newspaper" means—

(*a*) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press and Registration of Books Act, 1867, and XXV of 186

(*b*) any newspaper in respect of which security has been required under this Act, but has not been furnished as required;

(*10*) "unauthorised news-sheet" means any news-sheet other than a news-sheet published by a person authorised under section 15 to publish it; and

(*11*) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press and Registration of Books Act, 1867[3]. XXV of 186

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[1] This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

[2] Sub-section (3) rep. by the Criminal Law Amendment Act, 1935, s. 2.

[3] For ss. 2A and 2B as applied to Bengal, see Ben. Act 7 of 1934; as applied to Assam, see Assam Act 3 of 1934.

(Control of printing-presses and newspapers.)

Control of printing-presses and newspapers.

3. *(1)* Any person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the [1][Central Government] as the person making the deposit may choose:

Deposit of security by keepers of printing-presses.

XXV of 1867.

Provided that if a deposit has been required under sub-section *(3)* from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section *(1)* has been deposited in respect of any printing-press, and for a period of three months from the date of the declaration mentioned in sub-section *(1)* no order is made by the [2][Provincial Government] under section 4 in respect of such press, the security shall, on application by the keeper of the press, be refunded.

(3) Whenever it appears to the [2][Provincial Government] that any printing-press kept in any place in the territories under its administration, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section *(2)*, is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations of the nature described in section 4, sub-section *(1)*, the [2][Provincial Government] may, by notice in writing to the keeper of the press stating or describing such words, signs or visible representations, order the keeper to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than three thousand rupees as the [2][Provincial Government] may think fit to require, in money or the equivalent thereof in securities of the [1][Central Government] as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

4. *(1)* Whenever it appears to the [2][Provincial Government] that any printing-press in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which—

Power to declare security or press forfeited in certain cases.

(a) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or

[1] Subs. by the A. O. for "G. of I."
[2] Subs. by the A. O. for "L. G."

(Control of printing-presses and newspapers.)

(*b*) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence,

[1][or which tend, directly or indirectly,—

(*c*) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(*d*) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government, or

(*e*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*f*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(*g*) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(*h*) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or

(*i*) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force ;][2]

the [3][Provincial Government] may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above,—

(*i*) where security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(*ii*) where security has not been deposited, declare the press to be forfeited to His Majesty,

and may also declare all copies of such newspaper, book or other document wherever found in British India to be forfeited to His Majesty.[4]

[illegible]

(Control of printing-presses and newspapers.)

Explanation [1][*1*].—No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (*a*).

[1][*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*d*) of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of His Majesty's subjects shall not be deemed to be words of the nature described in clause (*h*) of this sub-section.]

(*2*) After the expiry of ten days from the date of the issue of a notice under sub-section (*1*) declaring a security, or any portion thereof, to be forfeited, the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

Deposit of further security.

5. (*1*) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4 or section 6, every person making a fresh declaration in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall deposit with the Magistrate before whom such declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the [2][Central Government] as the person making the deposit may choose. XXV of 1867.

(*2*) Where a portion only of the security given in respect of such press has been declared forfeited under section 4 or section 6, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (*1*).

Power to declare further security and publications forfeited.

6. (*1*) If, after security has been deposited under section 5, the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the [3][Provincial Government], are of the nature described in section 4, sub-section (*1*), the [3][Provincial Government]

[1] [illegible] to 4 were ins. by the Cr-

(Control of printing-presses and newspapers.)

may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare—

(a) the further security so deposited, or any portion thereof, and
(b) all copies of such newspaper, book or other document wherever found in British India

to be forfeited to His Majesty.

(2) After the expiry of ten days from the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

Deposit of security by publisher of newspaper

7. (1) Any publisher of a newspaper who is required to make a declaration under section 5 of the Press and Registration of Books Act, 1867, may XXV of 1867. be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the [1][Central Government] as the person making the deposit may choose:

Provided that if a deposit has been required under sub-section (3) from any previous publisher of the newspaper, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any newspaper, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the [2][Provincial Government] under section 8 in respect of such newspaper, the security shall, on application by the publisher of the newspaper, be refunded.

(3) Whenever it appears to the [2][Provincial Government] that a newspaper published within its territories in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), contains any words, signs or visible representations of the nature described in section 4, sub-section (1), the [2][Provincial Government] may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, require the publisher to deposit with the Magistrate within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than three thousand rupees, as the [2][Provincial Government] may think fit to require, in money or the equivalent thereof in securities of the [1][Central Government] as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

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[1] Subs. by the A. O. for "G. of I."
[2] Subs. by the A. O. for "L. G."

(Control of printing-presses and newspapers.)

8. (*1*) If any newspaper in respect of which any security has been ordered to be deposited under section 7 contains any words, signs or visible representations which, in the opinion of the [1][Provincial Government], are of the nature described in section 4, sub-section (*1*), the [1][Provincial Government] may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations,— **Power to declare security forfeited in certain cases.**

(*a*) where the security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(*b*) where the security has not been deposited, annul the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, **XXV of 1867.**

and may also declare all copies of such newspaper, wherever found in British India, to be forfeited to His Majesty.

(*2*) After the expiry of ten days from the date of the issue of a notice under sub-section (*1*) declaring a security, or any portion thereof, to be forfeited, the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. **XXV of 1867.**

9. (*1*) Where the security given in respect of any newspaper, or any portion thereof, is declared forfeited under section 8 or section 10, any person making a fresh declaration under section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the [2][Central Government] as the person making the deposit may choose. **Deposit of further security.** **XXV of 1867.**

(*2*) Where a portion only of the security given in respect of such newspaper has been declared forfeited under section 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (*1*).

10. (*1*) If, after security has been deposited under section 9, the newspaper again contains any words, signs or visible representations which, in the opinion of the [1][Provincial Government], are of the nature described in section 4, sub-section (*1*), the [1][Provincial Government] may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare— **Power to declare further security and newspapers forfeited.**

(*a*) the further security so deposited, or any portion thereof, and

(*b*) all copies of such newspaper wherever found in British India

to be forfeited to His Majesty.

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "G. of I."

(Control of printing-presses and newspapers.)

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled and no further declaration in respect of such newspaper shall be made save with the permission of the [1][Provincial Government]. XXV of 1867.

Penalty for keeping press or publishing newspaper without making deposit

11. (1) Whoever keeps in his possession a press which is used for the printing of books or papers without making a deposit under section 3 or section 5, as required by the [1][Provincial Government] or the Magistrate as the case may be, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press and Registration of Books Act, 1867. XXV of 1867.

(2) Whoever publishes any newspaper without making a deposit under section 7 or section 9, as required by the [1][Provincial Government] or the Magistrate as the case may be, or publishes such newspaper knowing that such security has not been deposited, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press and Registration of Books Act, 1867. XXV of 1867.

Consequences of failure to deposit security as required.

12. (1) Where a deposit is required from the keeper of a printing-press under section 3, such press shall not be used for the printing or publishing of any newspaper, book or other document after the expiry of the time allowed to make the deposit until the deposit has been made, and where a deposit is required from the keeper of a printing-press under section 5, such press shall not be so used until the deposit has been made.

(2) Where any printing-press is used in contravention of sub-section (1), the [1][Provincial Government] may, by notice in writing to the keeper thereof, declare the press to be forfeited to His Majesty.

(3) Where a deposit is required from the publisher of a newspaper under section 7 and the deposit is not made within the time allowed, the declaration made by the publisher under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

Return of deposited security in certain cases.

13. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person. XXV of 1867.

Issue of search warrant.

14. Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to His Majesty under section 4, section 6, section 8, section 10 or section 12, the [1][Provincial Government] may

[1] Subs. by the A. O. for "L. G."

(Control of the printing-presses and newspapers. Unauthorised news-sheets and newspapers.)

direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(*i*) where any such property may be or may be reasonably suspected to be, or

(*ii*) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

Unauthorised news-sheets and newspapers.

15. (*1*) The Magistrate may by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time. Authorisation of persons to publish news-sheets.

(*2*) A copy of an order under sub-section (*1*) shall be furnished to the person thereby authorised.

(*3*) The Magistrate may at any time revoke an order made by him under sub-section (*1*)

16. (*1*) Any police-officer, or any other person empowered in this behalf by the [1][Provincial Government], may seize any unauthorised news-sheet or unauthorised newspaper, wherever found. Power to seize and destroy unauthorised news-sheets and newspapers.

(*2*) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(*3*) All documents seized under sub-section (*1*) shall be produced as soon as may be before a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (*2*) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(*4*) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal
V of 1898. Procedure, 1898.

[1] Subs. by the A. O. for "L. G."

(Unauthorised news-sheets and newspapers. Special provisions relating to the seizure of certain documents.)

Power to seize and forfeit undeclared presses producing unauthorised news-sheets and newspapers.

17. *(1)* Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is an undeclared press and is used to produce an unauthorised news-sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

(2) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized:

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to His Majesty. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898. V of 1898.

(4) The Court shall deal with documents produced before it under this section in the manner provided in sub-section *(4)* of section 16.

Penalty for disseminating unauthorised news-sheets and newspapers.

18. *(1)* Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under sub-section *(1)*, and any abetment of any such offence, shall be cognizable. V of 1898.

Special provisions relating to the seizure of certain documents.

Power to declare certain publications forfeited and to issue search warrants for same.

19. Where any newspaper, book or other document wherever made appears to the [1][Provincial Government] to contain any words, signs or visible representations of the nature described in section 4, sub-section *(1)*, the [1][Provincial Government] may, by notifiction in the [2][Official Gazette], stating the grounds of its opinion, declare every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to His Majesty,

[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".

and thereupon any police-officer may seize the same wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

Power to detain packages containing certain publications when imported into British India.

20. The Chief Customs-officer or other officer authorised by the [1][Provincial Government] in this behalf may detain any package brought, whether by land, sea or air, into British India which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (*1*), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the [1][Provincial Government] may appoint in this behalf to be disposed of in such manner as the [1][Provincial Government] may direct.

Prohibition of transmission by post of certain documents.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.

Power to detain articles being transmitted by post.

22. Any officer in charge of a post-office or authorised by the Post-Master General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—

(*a*) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (*1*), or

(*b*) any unauthorised news-sheet or unauthorised newspaper,

and shall deliver all such articles to such officer as the [1][Provincial Government] may appoint in this behalf to be disposed of in such manner as the [1][Provincial Government] may direct.

Powers of High Court.

Application to High Court to set aside order of forfeiture.

23. (*1*) The keeper of a printing-press who has been ordered to deposit security under sub-section (*3*) of section 3, or the publisher of a newspaper who has been ordered to deposit security under sub-section (*3*) of section 7, or any person having an interest in any property in respect of which an order of forfeiture has been made under section 4, section 6, section 8, section 10 or section 19 may, within two months from the date of such order, apply to the High Court for the local area in which such order was made, to set aside such order, and the High Court shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any words, signs or visible representations of the nature described in section 4, sub-section (*1*).

(*2*) The keeper of a printing-press in respect of which an order of forfeiture has been made under sub-section (*2*) of section 12 on the ground that

[1] Subs. by the A. O. for "L. G."

(Powers of High Court. Supplemental.)

it has been used in contravention of sub-section (*1*) of that section may apply to such High Court to set aside the order on the ground that the press was not so used.

Hearing by Special Bench.

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or, where the High Court consists of less than three Judges, of all the Judges.

Order of Special Bench setting aside forfeiture.

25. (*1*) If it appears to the Special Bench on an application under sub-section (*1*) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (*1*), the Special Bench shall set aside the order.

(*2*) If it appears to the Special Bench on an application under sub-section (*2*) of section 23 that the printing-press was not used in contravention of sub-section (*1*) of section 12, it shall set aside the order of forfeiture.

(*3*) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(*4*) Where there is no such majority which concurs in setting aside the order in question, the order shall stand.

Evidence to prove nature or tendency of newspapers.

26. On the hearing of an application under sub-section (*1*) of section 23 with reference to any newspaper, any copy of such newspaper published after the commencement of this Act may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order was made.

Procedure in High Court.

27. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Supplemental.

Service of notices.

28. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898: V of 1898.

Provided that if service in such manner cannot by the exercise of due diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press and Registration of Books Act, 1867, and where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of the said Act; and thereupon the notice shall be deemed to have been duly served. XXV of 1867.

29. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898. Conduct of searches. V of 1898

30. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on application under section 23, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act. Jurisdiction barred.

31. Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act. Operation of other laws not barred

32. [1]* * * All declarations required to be made under section 4, section 5, section 8 and section 8A of the Press and Registration of Books Act, 1867, shall be made, in a Presidency-town before the Chief Presidency Magistrate, and elsewhere before the District Magistrate. Declarations under Act XXV of 1867 to be made before certain Magistrates. XXV of 1867.

THE INDIAN FINANCE (SUPPLEMENTARY AND EXTENDING) ACT, 1931.[2]

[*28th November, 1931.*]

An Act to supplement the Indian Finance Act, 1931, and to extend the operation of its temporary provisions

WHEREAS it is expedient to supplement the Indian Finance Act, 1931, and to extend the operation of its temporary provisions to the financial year beginning on the 1st April, 1932; It is hereby enacted as follows :—

1. This Act may be called the Indian Finance (Supplementary and Extending) Act, 1931. Short title.

2. [*Extension to the next financial year of the operation of the temporary provisions of the Indian Finance Act, 1931.*] *Spent*

3 & 4. [*Amendment of Schedule II to the Indian Tariff Act, 1894, and the Indian Finance Act, 1931. Additional customs duties.*] *Rep. by the Indian Tariff Act, 1934 (XXXII of 1934), s 13 and Sch. III.*

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[1] The words "So long as this Act remains in force," rep by the Criminal Law Amendment Act, 1935, s. 7.

[2] This Act was made by the Governor General under the provisions of s. 67B of the G. of I. Act. No number was given.
For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 126.

Additional excise and other duties. [1]5. Where any salt, motor spirit [2][or kerosene] chargeable with duty under the Indian Salt Act, 1882, or under the Motor Spirit (Duties) Act, 1917, or under the Indian Finance Act, 1922, [3]* * * or under any of the said Acts read with any other enactment or with any notification of the [4][Central Government] for the time being in force, is assessed to duty, there shall be levied and collected, as an addition to and in the same manner as the total amount so chargeable, a sum equal to one-quarter of such total amount. XII of 1882. II of 1917. XII of 1922.

6. [*Increase of certain inland postage rates.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

7 to 9. [*Lowering of limits of total income liable to income-tax. Additional income-tax and super-tax for the current financial year. Additional income-tax and super-tax for the next financial year.*] *Spent.*

10. [*Amendment of section 19, Act X of 1923.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

SCHEDULE I.—Rep. by the Indian Tariff Act, 1934 (XXXII of 1934), s. 13 and Sch. III.

SCHEDULE II.—Spent.

THE BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) ACT, 1932.

ACT NO. VIII OF 1932.[5]

[5th April, 1932.]

An Act to supplement the Bengal Criminal Law Amendment Act, 1930.

Whereas it is expedient to supplement the Bengal Criminal Law Amendment Act, 1930; It is hereby enacted as follows:— Ben. VI of 1930.

Short title. 1. This Act may be called the Bengal Criminal Law Amendment (Supplementary) Act, 1932.

[6]* * * * * *

Power to order custody in jail. 2. The power of the [7][Provincial Government] under sub-section (*1*) of section 2 of the Bengal Criminal Law Amendment Act, 1930 (hereinafter Ben. VI of 1930.

[illegible] inserted [illegible]

[illegible] 7, [illegible]

[5] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 8, and for [illegible]

[illegible] " rep. by the [illegible] 1931), s. 2.

[illegible]

referred to as the local Act), to direct by order in writing that any person shall be committed to custody in jail shall be deemed to include a power to direct, by order in writing [1]* * * that such person shall be committed to custody in any jail in British India ; and, for all or any of the purposes of the local Act, an order so made shall be deemed to be an order made under section 2 of that Act, and all the provisions of that Act shall apply accordingly : outside Bengal.

Provided that—

[2][(*a*) no such order as aforesaid shall be made except with the previous consent of the Provincial Government of the Province in which the jail is situated ; and

(*b*)] the powers exercisable by the [3][Provincial Government] under section 11 of the local Act in respect of any person committed to custody in a jail outside Bengal, and under section 13 of that Act to provide for the manner of custody of any such person, shall be exercised by the [3][Provincial Government] of the Province in which the jail is situated, and rules made by such [3][Provincial Government] in exercise of such powers shall be published in the [4][Official Gazette].

Construction.

3. References to the local Act in sections 14 and 15 of that Act shall be deemed also to be references to the local Act as supplemented by this Act.

Bar of certain legal proceedings.

V of 1898.

4. The powers conferred by section 491 of the Code of Criminal Procedure, 1898, shall not be exercised in respect of any person arrested, committed to or detained in custody under the local Act or the local Act as supplemented by this Act.

5. [*Repeals*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE INDIAN PARTNERSHIP ACT, 1932.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

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[1] The words " made with the previous sanction of the G. G. in C. " rep. by the A. O.
[2] Ins. by the A. O
[3] Subs. by the A. O. for " L. G."
[4] Subs by the A. O for " local official Gazette ".

Additional excise and other duties.

[1]**5.** Where any salt, motor spirit [2][or kerosene] chargeable with duty under the Indian Salt Act, 1882, or under the Motor Spirit (Duties) Act, 1917, or under the Indian Finance Act, 1922, [3]* * * or under any of the said Acts read with any other enactment or with any notification of the [4][Central Government] for the time being in force, is assessed to duty, there shall be levied and collected, as an addition to and in the same manner as the total amount so chargeable, a sum equal to one-quarter of such total amount. XII of 1882. II of 1917. XII of 1922.

6. [*Increase of certain inland postage rates.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s 3 and Sch. II.*

7 to 9. [*Lowering of limits of total income liable to income-tax. Additional income-tax and super-tax for the current financial year. Additional income-tax and super-tax for the next financial year.*] *Spent.*

10. [*Amendment of section 19, Act X of 1923.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

SCHEDULE I.—Rep. by the Indian Tariff Act, 1934 (XXXII of 1934), s. 13 and Sch. III.

SCHEDULE II.—Spent.

THE BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) ACT, 1932.

ACT NO. VIII OF 1932.[5]

[*5th April, 1932.*]

An Act to supplement the Bengal Criminal Law Amendment Act, 1930.

Whereas it is expedient to supplement the Bengal Criminal Law Amendment Act, 1930; It is hereby enacted as follows:— Ben. VI of 1930.

Short title.

1. This Act may be called the Bengal Criminal Law Amendment (Supplementary) Act, 1932.

[6]* * * * * *

Power to order custody in jail

2. The power of the [7][Provincial Government] under sub-section (*1*) of section 2 of the Bengal Criminal Law Amendment Act, 1930 (hereinafter Ben. VI of 1930.

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[1] This section came into effect on 30th September, 1931, by virtue of a declaration inserted in th[illegible] 31).

[2] [illegible] ne or silver ".

[3] [illegible] " rep. by s. 7, *ibid.*

[4] [illegible]

[5] [illegible] for [illegible]

[6] [illegible]

[7] Subs. by the A. O. for " L. G."

referred to as the local Act), to direct by order in writing that any person shall be committed to custody in jail shall be deemed to include a power to direct, by order in writing [1]* * * that such person shall be committed to custody in any jail in British India; and, for all or any of the purposes of the local Act, an order so made shall be deemed to be an order made under section 2 of that Act, and all the provisions of that Act shall apply accordingly: outside Bengal.

Provided that—

[2][(a) no such order as aforesaid shall be made except with the previous consent of the Provincial Government of the Province in which the jail is situated; and

(b)] the powers exercisable by the [3][Provincial Government] under section 11 of the local Act in respect of any person committed to custody in a jail outside Bengal, and under section 13 of that Act to provide for the manner of custody of any such person, shall be exercised by the [3][Provincial Government] of the Province in which the jail is situated, and rules made by such [3][Provincial Government] in exercise of such powers shall be published in the [4][Official Gazette].

3. References to the local Act in sections 14 and 15 of that Act shall be deemed also to be references to the local Act as supplemented by this Act. Construction.

4. The powers conferred by section 491 of the Code of Criminal Procedure, 1898, shall not be exercised in respect of any person arrested, committed to or detained in custody under the local Act or the local Act as supplemented by this Act. Bar of certain legal proceedings. V of 1898.

5. [*Repeals.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE INDIAN PARTNERSHIP ACT, 1932.

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PRELIMINARY.

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[1] The words "made with the previous sanction of the G. G. in C." rep. by the A. O.
[2] Ins. by the A. O.
[3] Subs. by the A. O. for "L. G."
[4] Subs. by the A. O. for "local official Gazette".

CHAPTER II.

THE NATURE OF PARTNERSHIP.

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ACT NO. IX OF 1932.[1]

[*8th April, 1932.*]

An Act to define and amend the law relating to partnership.

WHEREAS it is expedient to define and amend the law relating to partnership; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Partnership Act, 1932.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

[1] For Statement of Objects and Reasons and for Report of Special Committee, *see* Gazette of India, 1931, Pt. V, p. 31; for Report of Select Committee, *see ibid.*, 1932, Pt. V, p. 1.

(3) It shall come into force on the 1st day of October, 1932, except section 69, which shall come into force on the 1st day of October, 1933.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) an "act of a firm" means any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm;

(b) "business" includes every trade, occupation and profession;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "third party" used in relation to a firm or to a partner therein means any person who is not a partner in the firm; and

(e) expressions used but not defined in this Act and defined in the Indian Contract Act, 1872, shall have the meanings assigned to them in that Act. IX of 1872.

IX of 1872. 3. The unrepealed provisions of the Indian Contract Act, 1872, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to firms. Application of provisions of Act IX of 1872.

CHAPTER II.

THE NATURE OF PARTNERSHIP.

4. "Partnership" is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Definition of "partnership", "partner", "firm" and "firm name".

Persons who have entered into partnership with one another are called individually "partners" and collectively "a firm", and the name under which their business is carried on is called the "firm name".

5. The relation of partnership arises from contract and not from status; and, in particular, the members of a Hindu undivided family carrying on a family business as such, or a Burmese Buddhist husband and wife carrying on business as such are not partners in such business. Partnership not created by status.

6. In determining whether a group of persons is or is not a firm, or whether a person is or is not a partner in a firm, regard shall be had to the real relation between the parties, as shown by all relevant facts taken together. Mode of determining existence of partnership.

Explanation 1.—The sharing of profits or of gross returns arising from property by persons holding a joint or common interest in that property does not of itself make such persons partners.

Explanation 2.—The receipt by a person of a share of the profits of a business, or of a payment contingent upon the earning of profits or varying with the profits earned by a business, does not of itself make him a partner with the persons carrying on the business;

and, in particular, the receipt of such share or payment—

(*a*) by a lender of money to persons engaged or about to engage in any business,

(*b*) by a servant or agent as remuneration,

(*c*) by the widow or child of a deceased partner, as annuity, or

(*d*) by a previous owner or part owner of the business, as consideration for the sale of the goodwill or share thereof,

does not of itself make the receiver a partner with the persons carrying on the business.

Partnership at will.

7. Where no provision is made by contract between the partners for the duration of their partnership, or for the determination of their partnership, the partnership is "partnership at will".

Particular partnership.

8. A person may become a partner with another person in particular adventures or undertakings.

CHAPTER III.

RELATIONS OF PARTNERS TO ONE ANOTHER

General duties of partners.

9. Partners are bound to carry on the business of the firm to the greatest common advantage, to be just and faithful to each other, and to render true accounts and full information of all things affecting the firm to any partner or his legal representative.

Duty to indemnify for loss caused by fraud.

10. Every partner shall indemnify the firm for any loss caused to it by his fraud in the conduct of the business of the firm.

Determination of rights and duties of partners by contract between the partners.

11. (*1*) Subject to the provisions of this Act, the mutual rights and duties of the partners of a firm may be determined by contract between the partners, and such contract may be express or may be implied by a course of dealing.

Such contract may be varied by consent of all the partners, and such consent may be express or may be implied by a course of dealing.

Agreements in restraint of trade.

(*2*) Notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such contracts may provide that a partner shall not carry on any business other than that of the firm while he is a partner. IX of 1872

The conduct of the business.

12. Subject to contract between the partners—

(*a*) every partner has a right to take part in the conduct of the business;

(*b*) every partner is bound to attend diligently to his duties in the conduct of the business;

(*c*) any difference arising as to ordinary matters connected with the business may be decided by a majority of the partners, and

every partner shall have the right to express his opinion before the matter is decided, but no change may be made in the nature of the business without the consent of all the partners; and

(*d*) every partner has a right to have access to and to inspect and copy any of the books of the firm.

Mutual rights and liabilities.

13. Subject to contract between the partners—

(*a*) a partner is not entitled to receive remuneration for taking part in the conduct of the business;

(*b*) the partners are entitled to share equally in the profits earned, and shall contribute equally to the losses sustained by the firm;

(*c*) where a partner is entitled to interest on the capital subscribed by him such interest shall be payable only out of profits;

(*d*) a partner making, for the purposes of the business, any payment or advance beyond the amount of capital he has agreed to subscribe, is entitled to interest thereon at the rate of six per cent. per annum;

(*e*) the firm shall indemnify a partner in respect of payments made and liabilities incurred by him—

(*i*) in the ordinary and proper conduct of the business, and

(*ii*) in doing such act, in an emergency, for the purpose of protecting the firm from loss, as would be done by a person of ordinary prudence, in his own case, under similar circumstances; and

(*f*) a partner shall indemnify the firm for any loss caused to it by his wilful neglect in the conduct of the business of the firm.

The property of the firm.

14. Subject to contract between the partners, the property of the firm includes all property and rights and interests in property originally brought into the stock of the firm, or acquired, by purchase or otherwise, by or for the firm, or for the purposes and in the course of the business of the firm, and includes also the goodwill of the business.

Unless the contrary intention appears, property and rights and interests in property acquired with money belonging to the firm are deemed to have been acquired for the firm.

Application of the property of the firm.

15. Subject to contract between the partners, the property of the firm shall be held and used by the partners exclusively for the purposes of the business.

Personal profits earned by partners.

16. Subject to contract between the partners,—

(*a*) if a partner derives any profit for himself from any transaction of the firm, or from the use of the property or business connection of the firm or the firm name, he shall account for that profit and pay it to the firm;

(*2*) Where after a partner's death the business is continued in the old firm name, the continued use of that name or of the deceased partner's name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the firm done after his death.

Rights of transferee of a partner's interest.

29. (*1*) A transfer by a partner of his interest in the firm, either absolute or by mortgage, or by the creation by him of a charge on such interest, does not entitle the transferee, during the continuance of the firm, to interfere in the conduct of the business, or to require accounts, or to inspect the books of the firm, but entitles the transferee only to receive the share of profits of the transferring partner, and the transferee shall accept the account of profits agreed to by the partners.

(*2*) If the firm is dissolved or if the transferring partner ceases to be a partner, the transferee is entitled as against the remaining partners to receive the share of the assets of the firm to which the transferring partner is entitled, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

Minors admitted to the benefits of partnership.

30. (*1*) A person who is a minor according to the law to which he is subject may not be a partner in a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of partnership.

(*2*) Such minor has a right to such share of the property and of the profits of the firm as may be agreed upon, and he may have access to and inspect and copy any of the accounts of the firm.

(*3*) Such minor's share is liable for the acts of the firm, but the minor is not personally liable for any such act.

(*4*) Such minor may not sue the partners for an account or payment of his share of the property or profits of the firm, save when severing his connection with the firm, and in such case the amount of his share shall be determined by a valuation made as far as possible in accordance with the rules contained in section 48 :

Provided that all the partners acting together or any partner entitled to dissolve the firm upon notice to other partners may elect in such suit to dissolve the firm, and thereupon the Court shall proceed with the suit as one for dissolution and for settling accounts between the partners, and the amount of the share of the minor shall be determined along with the shares of the partners.

(*5*) At any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership, whichever date is later, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm, and such notice shall determine his position as regards the firm :

Provided that, if he fails to give such notice, he shall become a partner in the firm on the expiry of the said six months.

(*6*) Where any person has been admitted as a minor to the benefits of partnership in a firm, the burden of proving the fact that such person had

no knowledge of such admission until a particular date after the expiry of six months of his attaining majority shall lie on the persons asserting that fact.

(*7*) Where such person becomes a partner,—

(*a*) his rights and liabilities as a minor continue up to the date on which he becomes a partner, but he also becomes personally liable to third parties for all acts of the firm done since he was admitted to the benefits of partnership, and

(*b*) his share in the property and profits of the firm shall be the share to which he was entitled as a minor.

(*8*) Where such person elects not to become a partner,—

(*a*) his rights and liabilities shall continue to be those of a minor under this section up to the date on which he gives public notice,

(*b*) his share shall not be liable for any acts of the firm done after the date of the notice, and

(*c*) he shall be entitled to sue the partners for his share of the property and profits in accordance with sub-section (*4*)

(*9*) Nothing in sub-sections (*7*) and (*8*) shall affect the provisions of section 28.

CHAPTER V

Incoming and outgoing partners

31. (*1*) Subject to contract between the partners and to the provisions of section 30, no person shall be introduced as a partner into a firm without the consent of all the existing partners **Introduction of a partner.**

(*2*) Subject to the provisions of section 30, a person who is introduced as a partner into a firm does not thereby become liable for any act of the firm done before he became a partner.

32. (*1*) A partner may retire— **Retirement of a partner.**

(*a*) with the consent of all the other partners,

(*b*) in accordance with an express agreement by the partners, or

(*c*) where the partnership is at will, by giving notice in writing to all the other partners of his intention to retire.

(*2*) A retiring partner may be discharged from any liability to any third party for acts of the firm done before his re irement by an agreement made by him with such third party and the partners of the reconstituted firm, and such agreement may be implied by a course of dealing between such third party and the reconstituted firm after he had knewledge of the retirement.

(Chapter V.—Incoming and outgoing partners.)

(*3*) Notwithstanding the retirement of a partner from a firm, he and the partners continue to be liable as partners to third parties for any act done by any of them which would have been an act of the firm if done before the retirement, until public notice is given of the retirement:

Provided that a retired partner is not liable to any third party who deals with the firm without knowing that he was a partner.

(*4*) Notices under sub-section (*3*) may be given by the retired partner or by any partner of the reconstituted firm.

Expulsion of a partner.

33. (*1*) A partner may not be expelled from a firm by any majority of the partners, save in the exercise in good faith of powers conferred by contract between the partners.

(*2*) The provisions of sub-sections (*2*), (*3*) and (*4*) of section 32 shall apply to an expelled partner as if he were a retired partner.

Insolvency of a partner.

34. (*1*) Where a partner in a firm is adjudicated an insolvent he ceases to be a partner on the date on which the order of adjudication is made, whether or not the firm is thereby dissolved.

(*2*) Where under a contract between the partners the firm is not dissolved by the adjudication of a partner as an insolvent, the estate of a partner so adjudicated is not liable for any act of the firm and the firm is not liable for any act of the insolvent, done after the date on which the order of adjudication is made.

Liability of estate of deceased partner.

35. Where under a contract between the partners the firm is not dissolved by the death of a partner, the estate of a deceased partner is not liable for any act of the firm done after his death.

Rights of outgoing partner to carry on competing business.

36. (*1*) An outgoing partner may carry on a business competing with that of the firm and he may advertise such business, but, subject to contract to the contrary, he may not—

(*a*) use the firm name,

(*b*) represent himself as carrying on the business of the firm, or

(*c*) solicit the custom of persons who were dealing with the firm before he ceased to be a partner.

Agreements in restraint of trade.

(*2*) A partner may make an agreement with his partners that on ceasing to be a partner he will not carry on any business similar to that of the firm within a specified period or within specified local limits; and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable. IX of 1872.

Right of outgoing partner in certain cases to share subsequent profits.

37. Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with the property of the firm without any final settlement of accounts as between them and the outgoing partner or his estate, then, in the absence of a contract to the contrary, the outgoing partner or his estate is

entitled at the option of himself or his representatives to such share of the profits made since he ceased to be a partner as may be attributable to the use of his share of the property of the firm or to interest at the rate of six per cent. per annum on the amount of his share in the property of the firm :

Provided that where by contract between the partners an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be, is not entitled to any further or other share of profits ; but if any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section.

Revocation of continuing guarantee by change in firm

38. A continuing guarantee given to a firm, or to a third party in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions from the date of any change in the constitution of the firm.

CHAPTER VI.

Dissolution of a firm.

Dissolution of a firm.

39. The dissolution of partnership between all the partners of a firm is called the "dissolution of the firm".

Dissolution by agreement

40. A firm may be dissolved with the consent of all the partners or in accordance with a contract between the partners.

Compulsory dissolution

41. A firm is dissolved—

(*a*) by the adjudication of all the partners or of all the partners but one as insolvent, or

(*b*) by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the partners to carry it on in partnership :

Provided that, where more than one separate adventure or undertaking is carried on by the firm, the illegality of one or more shall not of itself cause the dissolution of the firm in respect of its lawful adventures and undertakings.

Dissolution on the happening of certain contingencies.

42. Subject to contract between the partners a firm is dissolved—

(*a*) if constituted for a fixed term, by the expiry of that term ;

(*b*) if constituted to carry out one or more adventures or undertakings, by the completion thereof ;

(*c*) by the death of a partner ; and

(*d*) by the adjudication of a partner as an insolvent.

(Chapter VI.—Dissolution of a firm.)

Dissolution by notice of partnership at will.

43. *(1)* Where the partnership is at will, the firm may be dissolved by any partner giving notice in writing to all the other partners of his intention to dissolve the firm.

(2) The firm is dissolved as from the date mentioned in the notice as the date of dissolution or, if no date is so mentioned, as from the date of the communication of the notice.

Dissolution by the Court.

44. At the suit of a partner, the Court may dissolve a firm on any of the following grounds, namely :—

(a) that a partner has become of unsound mind, in which case the suit may be brought as well by the next friend of the partner who has become of unsound mind as by any other partner ;

(b) that a partner, other than the partner suing, has become in any way permanently incapable of performing his duties as partner ;

(c) that a partner, other than the partner suing, is guilty of conduct which is likely to affect prejudicially the carrying on of the business, regard being had to the nature of the business ;

(d) that a partner, other than the partner suing, wilfully or persistently commits breach of agreements relating to the management of the affairs of the firm or the conduct of its business, or otherwise so conducts himself in matters relating to the business that it is not reasonably practicable for the other partners to carry on the business in partnership with him :

(e) that a partner, other than the partner suing, has in any way transferred the whole of his interest in the firm to a third party, or has allowed his share to be charged under the provisions of rule 49 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, or has allowed it to be sold in the recovery of arrears of land-revenue or of any dues recoverable as arrears of land-revenue due by the partner ; V of 1908.

(f) that the business of the firm cannot be carried on save at a loss ; or

(g) on any other ground which renders it just and equitable that the firm should be dissolved.

Liability for acts of partners done after dissolution.

45. *(1)* Notwithstanding the dissolution of a firm, the partners continue to be liable as such to third parties for any act done by any of them which would have been an act of the firm if done before the dissolution, until public notice is given of the dissolution :

Provided that the estate of a partner who dies, or who is adjudicated an insolvent, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable under this section for acts done after the date on which he ceases to be a partner.

(2) Notices under sub-section *(1)* may be given by any partner.

(Chapter VI.—Dissolution of a firm.)

Right of partners to have business wound up after dissolution.

46. On the dissolution of a firm every partner or his representative is entitled, as against all the other partners or their representatives, to have the property of the firm applied in payment of the debts and liabilities of the firm, and to have the surplus distributed among the partners or their representatives according to their rights.

Continuing authority of partners for purposes of winding up.

47. After the dissolution of a firm the authority of each partner to bind the firm, and the other mutual rights and obligations of the partners, continue notwithstanding the dissolution, so far as may be necessary to wind up the affairs of the firm and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise :

Provided that the firm is in no case bound by the acts of a partner who has been adjudicated insolvent, but this proviso does not affect the liability of any person who has after the adjudication represented himself or knowingly permitted himself to be represented as a partner of the insolvent.

Mode of settlement of accounts between partners.

48. In settling the accounts of a firm after dissolution, the following rules shall, subject to agreement by the partners, be observed :—

(*a*) Losses, including deficiencies of capital, shall be paid first out of profits, next out of capital, and, lastly, if necessary, by the partners individually in the proportions in which they were entitled to share profits.

(*b*) The assets of the firm, including any sums contributed by the partners to make up deficiencies of capital, shall be applied in the following manner and order :—

(i) in paying the debts of the firm to third parties,

(ii) in paying to each partner rateably what is due to him from the firm for advances as distinguished from capital,

(iii) in paying to each partner rateably what is due to him on amount of capital; and

(iv) the residue, if any, shall be divided among the partners in the proportions in which they were entitled to share profits.

Payment of firm debts and of separate debts.

49. Where there are joint debts due from the firm, and also separate debts due from any partner, the property of the firm shall be applied in the first instance in payment of the debts of the firm, and, if there is any surplus, then the share of each partner shall be applied in payment of his separate debts or paid to him. The separate property of any partner shall be applied first in the payment of his separate debts, and the surplus (if any) in the payment of the debts of the firm.

Personal profits earned after dissolution.

50. Subject to contract between the partners, the provisions of clause (*a*) of section 16 shall apply to transactions by any surviving partner or by the representatives of a deceased partner, undertaken after the firm is dissolved on account of the death of a partner and before its affairs have been completely wound up :

(Chapter VII.—Registration of firms.)

(*2*) No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.

(*3*) The provisions of sub-sections (*1*) and (*2*) shall apply also to a claim of set-off or other proceeding to enforce a right arising from a contract, but shall not affect—

(*a*) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or any right or power to realise the property of a dissolved firm, or

(*b*) the powers of an official assignee, receiver or Court under the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, to realise the property of an insolvent partner. II of 1909. V of 1920.

(*4*) This section shall not apply—

(*a*) to firms or to partners in firms which have no place of business in British India, or whose places of business in British India are situated in areas to which, by notification under [1][section 56], this Chapter does not apply, or

(*b*) to any suit or claim of set-off not exceeding one hundred rupees in value which, in the Presidency-towns, is not of a kind specified in section 19 of the Presidency Small Cause Courts Act, 1882, or, outside the Presidency-towns, is not of a kind specified in the Second Schedule to the Provincial Small Cause Courts Act, 1887, or to any proceeding in execution or other proceeding incidental to or arising from any such suit or claim. XV of 1882. IX of 1887.

Penalty for furnishing false particulars.

70. Any person who signs any statement, amending statement, notice or intimation under this Chapter containing any particular which he knows to be false or does not believe to be true, or containing particulars which he knows to be incomplete or does not believe to be complete, shall be punishable with imprisonment which may extend to three months, or with fine, or with both.

Power to make rules.

71. (*1*) The [2][Provincial Government] may make rules prescribing the fees which shall accompany documents sent to the Registrar of Firms, or which shall be payable for the inspection of documents in the custody of the Registrar of Firms, or for copies from the Register of Firms :

Provided that such fees shall not exceed the maximum fees specified in Schedule I.

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[1] Subs. by the Repealing and Amending Act, 1934 (24 of 1934), s. 2 and Sch. I, for "section 53".

[2] Subs. by the A. O. for "G. G. in C."

(Chapter VI.—Dissolution of a firm.)

46. On the dissolution of a firm every partner or his representative is entitled, as against all the other partners or their representatives, to have the property of the firm applied in payment of the debts and liabilities of the firm, and to have the surplus distributed among the partners or their representatives according to their rights.

Right of partners to have business wound up after dissolution.

47. After the dissolution of a firm the authority of each partner to bind the firm, and the other mutual rights and obligations of the partners, continue notwithstanding the dissolution, so far as may be necessary to wind up the affairs of the firm and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise :

Continuing authority of partners for purposes of winding up

Provided that the firm is in no case bound by the acts of a partner who has been adjudicated insolvent ; but this proviso does not affect the liability of any person who has after the adjudication represented himself or knowingly permitted himself to be represented as a partner of the insolvent.

48. In settling the accounts of a firm after dissolution, the following rules shall, subject to agreement by the partners, be observed :—

Mode of settlement of accounts between *partners.*

(a) Losses, including deficiencies of capital, shall be paid first out of profits, next out of capital, and, lastly, if necessary, by the partners individually in the proportions in which they were entitled to share profits.

(b) The assets of the firm, including any sums contributed by the partners to make up deficiencies of capital, shall be applied in the following manner and order :—

(i) in paying the debts of the firm to third parties ;

(ii) in paying to each partner rateably what is due to him from the firm for advances as distinguished from capital ;

(iii) in paying to each partner rateably what is due to him on amount of capital ; and

(iv) the residue, if any, shall be divided among the partners in the proportions in which they were entitled to share profits.

49. Where there are joint debts due from the firm, and also separate debts due from any partner, the property of the firm shall be applied in the first instance in payment of the debts of the firm, and, if there is any surplus, then the share of each partner shall be applied in payment of his separate debts or paid to him. The separate property of any partner shall be applied first in the payment of his separate debts, and the surplus (if any) in the payment of the debts of the firm.

Payment of firm debts and of separate debts.

50. Subject to contract between the partners, the provisions of clause (a) of section 16 shall apply to transactions by any surviving partner or by the representatives of a deceased partner, undertaken after the firm is dissolved on account of the death of a partner and before its affairs have been completely wound up :

Personal profits earned after dissolution.

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

Return of premium on premature dissolution.

51. Where a partner has paid a premium on entering into partnership for a fixed term, and the firm is dissolved before the expiration of that term otherwise than by the death of a partner, he shall be entitled to repayment of the premium or of such part thereof as may be reasonable, regard being had to the terms upon which he became a partner and to the length of time during which he was a partner, unless—

(*a*) the dissolution is mainly due to his own misconduct, or

(*b*) the dissolution is in pursuance of an agreement containing no provision for the return of the premium or any part of it.

Rights where partnership contract is rescinded for fraud or misrepresentation.

52. Where a contract creating partnership is rescinded on the ground of the fraud or misrepresentation of any of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled—

(*a*) to a lien on, or a right of retention of, the surplus or the assets of the firm remaining after the debts of the firm have been paid, for any sum paid by him for the purchase of a share in the firm and for any capital contributed by him ,

(*b*) to rank as a creditor of the firm in respect of any payment made by him towards the debts of the firm , and

(*c*) to be indemnified by the partner or partners guilty of the fraud or misrepresentation against all the debts of the firm.

Right to restrain from use of firm name or firm property.

53. After a firm is dissolved, every partner or his representative may, in the absence of a contract between the partners to the contrary, restrain any other partner or his representative from carrying on a similar business *in the firm name or from using any of the property of the firm for his own* benefit, until the affairs of the firm have been completely wound up :

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

Agreements in restraint of trade.

54. Partners may, upon or in anticipation of the dissolution of the firm, make an agreement that some or all of them will not carry on a business similar to that of the firm within a specified period or within specified local limits ; and notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable. IX of 1872.

Sale of goodwill after dissolution.

55. (*1*) In settling the accounts of a firm after dissolution, the goodwill shall, subject to contract between the partners, be included in the assets, and it may be sold either separately or along with other property of the firm.

(2) Where the goodwill of a firm is sold after dissolution, a partner may carry on a business competing with that of the buyer and he may advertise such business, but, subject to agreement between him and the buyer, he may not— Rights of buyer and seller of goodwill.

(a) use the firm name,
(b) represent himself as carrying on the business of the firm, or
(c) solicit the custom of persons who were dealing with the firm before its dissolution.

(3) Any partner may, upon the sale of the goodwill of a firm, make an agreement with the buyer that such partner will not carry on any business similar to that of the firm within a specified period or within specified local limits, and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable. Agreements in restraint of trade. IX of 1872.

CHAPTER VII

Registration of firms.

56. The [1][Provincial Government of any Province] may, by notification in the [2][Official Gazette], direct that the provisions of this Chapter shall not apply to [3][that Province] or to any part thereof specified in the notification. Power to exempt from application of this Chapter.

57. (1) The [4][Provincial Government] may appoint Registrars of Firms for the purposes of this Act, and may define the areas within which they shall exercise their powers and perform their duties. Appointment of Registrars.

(2) Every Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

58. (1) The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating— Application for registration.

(a) the firm name,
(b) the place or principal place of business of the firm,
(c) the names of any other places where the firm carries on business,
(d) the date when each partner joined the firm,
(e) the names in full and permanent addresses of the partners, and
(f) the duration of the firm.

The statement shall be signed by all the partners, or by their agents specially authorised in this behalf.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".
[3] Subs. by the A. O. for "any province".
[4] Subs. by the A. O. for "L. G."

(Chapter VI.—Dissolution of a firm.)

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

Return of premium on premature dissolution.

51. Where a partner has paid a premium on entering into partnership for a fixed term, and the firm is dissolved before the expiration of that term otherwise than by the death of a partner, he shall be entitled to repayment of the premium or of such part thereof as may be reasonable, regard being had to the terms upon which he became a partner and to the length of time during which he was a partner, unless—

(*a*) the dissolution is mainly due to his own misconduct, or

(*b*) the dissolution is in pursuance of an agreement containing no provision for the return of the premium or any part of it.

Rights where partnership contract is rescinded for fraud or misrepresentation.

52. Where a contract creating partnership is rescinded on the ground of the fraud or misrepresentation of any of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled—

(*a*) to a lien on, or a right of retention of, the surplus or the assets of the firm remaining after the debts of the firm have been paid, for any sum paid by him for the purchase of a share in the firm and for any capital contributed by him,

(*b*) to rank as a creditor of the firm in respect of any payment made by him towards the debts of the firm ; and

(*c*) to be indemnified by the partner or partners guilty of the fraud or misrepresentation against all the debts of the firm.

Right to restrain from use of firm name or firm property.

53. After a firm is dissolved, every partner or his representative may, in the absence of a contract between the partners to the contrary, restrain any other partner or his representative from carrying on a similar business in the firm name or from using any of the property of the firm for his own benefit, until the affairs of the firm have been completely wound up :

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

Agreements in restraint of trade.

54. Partners may, upon or in anticipation of the dissolution of the firm, make an agreement that some or all of them will not carry on a business similar to that of the firm within a specified period or within specified local limits; and notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable. IX of 1872.

Sale of goodwill after dissolution.

55. (*1*) In settling the accounts of a firm after dissolution, the goodwill shall, subject to contract between the partners, be included in the assets, and it may be sold either separately or along with other property of the firm.

(2) Where the goodwill of a firm is sold after dissolution, a partner may carry on a business competing with that of the buyer and he may advertise such business, but, subject to agreement between him and the buyer, he may not— Rights of buyer and seller of goodwill.

(a) use the firm name,
(b) represent himself as carrying on the business of the firm, or
(c) solicit the custom of persons who were dealing with the firm before its dissolution.

(3) Any partner may, upon the sale of the goodwill of a firm, make an agreement with the buyer that such partner will not carry on any business similar to that of the firm within a specified period or within specified local limits, and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable. Agreements in restraint of trade. IX of 1872.

CHAPTER VII.

REGISTRATION OF FIRMS.

56. The [1][Provincial Government of any Province] may, by notification in the [2][Official Gazette], direct that the provisions of this Chapter shall not apply to [3][that Province] or to any part thereof specified in the notification. Power to exempt from application of this Chapter.

57. (1) The [4][Provincial Government] may appoint Registrars of Firms for the purposes of this Act, and may define the areas within which they shall exercise their powers and perform their duties. Appointment of Registrars.

(2) Every Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

58. (1) The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating— Application for registration.

(a) the firm name,
(b) the place or principal place of business of the firm,
(c) the names of any other places where the firm carries on business,
(d) the date when each partner joined the firm,
(e) the names in full and permanent addresses of the partners, and
(f) the duration of the firm.

The statement shall be signed by all the partners, or by their agents specially authorised in this behalf.

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[1] Subs. by the A. O for " G G. in C."
[2] Subs. by the A. O for " Gazette of India ".
[3] Subs. by the A O for " any province ".
[4] Subs. by the A. O. for " L. G."

(Chapter VII.—Registration of firms.)

(2) Each person signing the statement shall also verify it in the manner prescribed.

(3) A firm name shall not contain any of the following words, namely :—

"Crown", "Emperor", "Empress", "Empire", "Imperial", "King", "Queen", "Royal", or words expressing or implying the sanction, approval or patronage of the Crown or [1][the Central Government, or any Provincial Government or the Crown Representative], except [2][when the Provincial Government] signifies [3][its] consent to the use of such words as part of the firm name by order in writing [4]* * *.

Registration.

59. When the Registrar is satisfied that the provisions of section 58 have been duly complied with, he shall record an entry of the statement in a register called the Register of Firms, and shall file the statement.

Recording of alterations in firm name and principal place of business

60. *(1)* When an alteration is made in the firm name or in the location of the principal place of business of a registered firm, a statement may be sent to the Registrar accompanied by the prescribed fee, specifying the alteration, and signed and verified in the manner required under section 58.

(2) When the Registrar is satisfied that the provisions of sub-section *(1)* have been duly complied with, he shall amend the entry relating to the firm in the Register of Firms in accordance with the statement, and shall file it along with the statement relating to the firm filed under section 59.

Noting of closing and opening of branches

61. When a registered firm discontinues business at any place or begins to carry on business at any place, such place not being its principal place of business, any partner or agent of the firm may send intimation thereof to the Registrar, who shall make a note of such intimation in the entry relating to the firm in the Register of Firms, and shall file the intimation along with the statement relating to the firm filed under section 59.

Noting of changes in names and addresses of partners.

62. When any partner in a registered firm alters his name or permanent address, an intimation of the alteration may be sent by any partner or agent of the firm to the Registrar, who shall deal with it in the manner provided in section 61.

Recording of changes in and dissolution of a firm.

63. *(1)* When a change occurs in the constitution of a registered firm any incoming, continuing or outgoing partner, and when a registered firm is dissolved any person who was a partner immediately before the dissolution, or the agent of any such partner or person specially authorised in this behalf, may give notice to the Registrar of such change or dissolution, specifying the date thereof; and the Registrar shall make a record of the notice in the

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[1] Subs. by the A. O. for "the G. of I. or a L. G."
[2] Subs. by the A. O. for "when the G. G. in C."
[3] Subs. by the A. O. for "his".
[4] The words "under the hand of one of the Secretaries of the G. of I." rep. by the A. O.

entry relating to the firm in the Register of Firms, and shall file the notice along with the statement relating to the firm filed under section 59.

(*2*) When a minor who has been admitted to the benefits of partnership in a firm attains majority and elects to become or not to become a partner, and the firm is then a registered firm, he, or his agent specially authorised in this behalf, may give notice to the Registrar that he has or has not become a partner, and the Registrar shall deal with the notice in the manner provided in sub-section (*1*) — Recording of withdrawal of a minor.

64. (*1*) The Registrar shall have power at all times to rectify any mistake in order to bring the entry in the Register of Firms relating to any firm into conformity with the documents relating to that firm filed under this Chapter. — Rectification of mistakes.

(*2*) On application made by all the parties who have signed any document relating to a firm filed under this Chapter, the Registrar may rectify any mistake in such document or in the record or note thereof made in the Register of Firms.

65. A Court deciding any matter relating to a registered firm may direct that the Registrar shall make any amendment in the entry in the Register of Firms relating to such firm which is consequential upon its decision; and the Registrar shall amend the entry accordingly — Amendment of Register by order of Court

66. (*1*) The Register of Firms shall be open to inspection by any person on payment of such fee as may be prescribed — Inspection of Register and filed documents.

(*2*) All statements, notices and intimations filed under this Chapter shall be open to inspection, subject to such conditions and on payment of such fee as may be prescribed.

67. The Registrar shall on application furnish to any person, on payment of such fee as may be prescribed, a copy, certified under his hand, of any entry or portion thereof in the Register of Firms. — Grant of copies.

68. (*1*) Any statement, intimation or notice recorded or noted in the Register of Firms shall, as against any person by whom or on whose behalf such statement, intimation or notice was signed, be conclusive proof of any fact therein stated. — Rules of evidence.

(*2*) A certified copy of an entry relating to a firm in the Register of Firms may be produced in proof of the fact of the registration of such firm, and of the contents of any statement, intimation or notice recorded or noted therein.

69. (*1*) No suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm. — Effect of non-registration.

(Chapter VII.—Registration of firms.)

(2) No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm

(3) The provisions of sub-sections (1) and (2) shall apply also to a claim of set-off or other proceeding to enforce a right arising from a contract, but shall not affect—

(a) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or any right or power to realise the property of a dissolved firm, or

(b) the powers of an official assignee, receiver or Court under the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, to realise the property of an insolvent partner. II of 1909. V of 1920.

(4) This section shall not apply—

(a) to firms or to partners in firms which have no place of business in British India, or whose places of business in British India are situated in areas to which, by notification under [1][section 56], this Chapter does not apply, or

(b) to any suit or claim of set-off not exceeding one hundred rupees in value which, in the Presidency-towns, is not of a kind specified in section 19 of the Presidency Small Cause Courts Act, 1882, or, outside the Presidency-towns, is not of a kind specified in the Second Schedule to the Provincial Small Cause Courts Act, 1887, or to any proceeding in execution or other proceeding incidental to or arising from any such suit or claim. XV of 1882. IX of 1887.

Penalty for furnishing false particulars.

70. Any person who signs any statement, amending statement, notice or intimation under this Chapter containing any particular which he knows to be false or does not believe to be true, or containing particulars which he knows to be incomplete or does not believe to be complete, shall be punishable with imprisonment which may extend to three months, or with fine, or with both.

Power to make rules.

71. (1) The [2][Provincial Government] may make rules prescribing the fees which shall accompany documents sent to the Registrar of Firms, or which shall be payable for the inspection of documents in the custody of the Registrar of Firms, or for copies from the Register of Firms :

Provided that such fees shall not exceed the maximum fees specified in Schedule I.

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[1] Subs. by the Repealing and Amending Act, 1934 (24 of 1934), s. 2 and Sch. I, for "section 55".

[2] Subs. by the A. O. for "G. G. in C."

(2) The [1][Provincial Government] may [2][also] make rules—

(a) prescribing the form of statement submitted under section 58, and of the verification thereof;

(b) requiring statements, intimations and notices under sections 60, 61, 62 and 63 to be in prescribed form, and prescribing the form thereof;

(c) prescribing the form of the Register of Firms, and the mode in which entries relating to firms are to be made therein, and the mode in which such entries are to be amended or notes made therein;

(d) regulating the procedure of the Registrar when disputes arise;

(e) regulating the filing of documents received by the Registrar;

(f) prescribing conditions for the inspection of original documents;

(g) regulating the grant of copies;

(h) regulating the elimination of registers and documents;

(i) providing for the maintenance and form of an index to the Register of Firms; and

(j) generally, to carry out the purposes of this Chapter.

(3) All rules made under this section shall be subject to the condition of previous publication.

CHAPTER VIII.

SUPPLEMENTAL.

72. A public notice under this Act is given— Mode of giving public notice.

(a) where it relates to the retirement or expulsion of a partner from a registered firm, or to the dissolution of a registered firm, or to the election to become or not to become a partner in a registered firm by a person attaining majority who was admitted as a minor to the benefits of partnership, by notice to the Registrar of Firms under section 63, and by publication in the [3][Official Gazette] and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business, and

(b) in any other case, by publication in the [3][Official Gazette] and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business.

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[1] Subs by the A. O. for "L. G."
[2] Ins by the A. O
[3] Subs by the A O. for "local official Gazette".

(Chapter VIII.—Supplemental. Schedule I.—Maximum fees. Schedule II.—Enactments Repealed.)

73. *[Repeals.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

Savings. **74.** Nothing in this Act or any repeal effected thereby shall affect or be deemed to affect—

(*a*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*b*) any legal proceeding or remedy in respect of any such right, title, interest, obligation or liability, or anything done or suffered before the commencement of this Act, or

(*c*) anything done or suffered before the commencement of this Act, or

(*d*) any enactment relating to partnership not expressly repealed by this Act, or

(*e*) any rule of insolvency relating to partnership, or

(*f*) any rule of law not inconsistent with this Act.

SCHEDULE I.

MAXIMUM FEES.

[*See* sub-section (*1*) of section 71.]

Document or act in respect of which the fee is payable	Maximum fee
Statement under section 58	Three rupees.
Statement under section 60	One rupee.
Intimation under section 61	One rupee.
Intimation under section 62	One rupee.
Notice under section 63	One rupee.
Application under section 64	One rupee.
Inspection of the Register of Firms under sub-section (*1*) of section 66	Eight annas for inspecting one volume of the Register.
Inspection of documents relating to a firm under sub-section (*2*) of section 66	Eight annas for the inspection of all documents relating to one firm.
Copies from the Register of Firms	Four annas for each hundred words or part thereof.

SCHEDULE II.—[ENACTMENTS REPEALED.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

THE PUBLIC SUITS VALIDATION ACT, 1932.

ACT No. XI OF 1932.[1]

[*8th April, 1932.*]

An Act to validate certain suits relating to public matters.

WHEREAS it is expedient to validate certain suits relating to public matters which may be or have been held to be invalid by reason of the previous sanction of the Local Government in respect thereof not having been obtained as required by section 93 of the Code of Civil Procedure, 1908 (V of 1908); It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Public Suits Validation Act, 1932.

(*2*) It extends to all parts of British India to which sections 91, 92 and 93 of the Code of Civil Procedure, 1908 (V of 1908), extend.

Validation of certain pending public suits.

2. Where a suit relating to any of the public matters specified in sections 91 and 92 of the Code of Civil Procedure, 1908 (V of 1908), is pending at the commencement of this Act, the institution of such suit shall not be deemed to be invalid on the ground that the previous sanction of the [2][Provincial Government] in respect of such suit has not been obtained as required by section 93 of that Code.

Explanation.—For the purposes of this section a suit pending at the commencement of this Act includes a suit in respect of which an appeal lies or is pending at the commencement of this Act.

Restoration of certain dismissed public suits.

3. Where any suit relating to any such public matter has, after the 30th day of November, 1931, and before the commencement of this Act, been dismissed by a Court of first instance solely on the ground that the sanction of the [2][Provincial Government] in respect of such suit has not been obtained as required by section 93 of the Code of Civil Procedure, 1908 (V of 1908), the Court shall, on application made within six months from the commencement of this Act, make an order setting aside its decree and shall proceed with the suit.

Retrial of certain appeals relating to public suits.

4. Where, in any appeal arising from a suit relating to any such public matter, a decree has been passed after the 30th day of November, 1931, and before the commencement of this Act, dismissing the appeal or dismissing the suit from which the appeal arose, solely on the ground that the previous sanction of the [2][Provincial Government] in respect of the suit had not been obtained as required by section 93 of the Code of Civil Procedure, 1908 (V of 1908), the Appellate Court shall, on application made within six months from the commencement of this Act, make an order setting aside its decree and shall proceed with the appeal

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 135.
[2] Subs by the A. O. for " L. G."

THE FOREIGN RELATIONS ACT, 1932.

ACT No. XII OF 1932.[1]

[8th April, 1932.]

An Act to provide against the publication of statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States.

WHEREAS it is expedient to provide against the publication of statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States; It is hereby enacted as follows:—

Short title and extent.

1. *(1)* This Act may be called the Foreign Relations Act, 1932.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Power of Central Government to prosecute in certain cases of defamation.

2. Where an offence falling under Chapter XXI of the Indian Penal Code (XLV of 1860.) is committed against a Ruler of a State outside but adjoining India, or against the consort or son or principal Minister of such Ruler, the [2][Central Government] may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, 1898 (V of 1898.), any Court competent in other respects to take cognizance of such offence may take cognizance thereof on such complaint.

[3]* * * * * * * *

Power to forfeit certain publications or to detain them in the course of transmission through post.

3. The provisions of sections 99A to 99G of the Code of Criminal Procedure, 1898 (V of 1898.), and of sections 27B to 27D of the Indian Post Office Act, 1898 (VI of 1898.), shall apply in the case of any book, newspaper or other document containing matter which is defamatory of a Ruler of a State outside but adjoining India or of the consort or son or principal Minister of such Ruler and tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State, in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections:

Provided that for the purposes of this section the said provisions shall be construed as if for the words "[4][Provincial Government]" wherever they occur, the words "[2][Central Government]" were substituted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 108; for Report of Select Committee, *see ibid.*, 1932, Pt. V, p. 99.

4. Where, in any trial of an offence upon a complaint under section 2, or in any proceeding before a High Court arising out of section 3, there is a question whether any person is a Ruler of any State, or is the consort or son or principal Minister of such Ruler, a certificate under the hand of a Secretary to the [1][Central Government] that such person is such Ruler, consort, son or principal Minister shall be conclusive proof of that fact. Proof of status of persons defamed.

THE SUGAR INDUSTRY (PROTECTION) ACT, 1932.

Act No. XIII of 1932.[2]

[8th April, 1932.]

An Act to provide for the fostering and development of the sugar industry in British India.

Whereas it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the fostering and development of the sugar industry for a period ending with the 31st day of March, 1946, by determining the extent of the protection to be conferred up to the 31st day of March, 1938, and by making provision for the determination of the extent of the protection to be conferred for the remainder of the period ; It is hereby enacted as follows :—

1. This Act may be called the Sugar Industry (Protection) Act, 1932. Short title.

2. [*Amendment of Schedule II, Act VIII of 1894.*] *Rep. by the Repealing Act, 1938 (I of 1938), s 2 and Sch*

3. The [3][Central Government] shall cause to be made, by such persons as [4][it] may appoint in this behalf, an inquiry to ascertain if the protection of the sugar industry during the period from the 31st day of March, 1938, to the 31st day of March, 1946, should be continued to the extent conferred by this Act, or to a greater or lesser extent, and shall, not later than the 31st day of March, 1938, lay [5][its] proposals in this behalf before the Indian Legislature. Statutory inquiry.

4. If the [3][Central Government] is satisfied after such inquiry as [4][it] thinks fit, that sugar not manufactured in India is being imported into British India at such a price as is likely to render insufficient the benefits intended to be conferred upon the sugar industry by the duties imposed by section 2, Power to increase duty imposed by section 2.

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[1] Subs by the A O for "G. of I"
[2] [illegible] V, p. 43 ; for Re-

[5] Subs. by the A. O. for "his".

THE FOREIGN RELATIONS ACT, 1932.

ACT No. XII OF 1932.[1]

[8th April, 1932.]

An Act to provide against the publication of statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States.

WHEREAS it is expedient to provide against the publication of statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Foreign Relations Act, 1932.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Power of Central Government to prosecute in certain cases of defamation.

2. Where an offence falling under Chapter XXI of the Indian Penal Code XLV of 1860. is committed against a Ruler of a State outside but adjoining India, or against the consort or son or principal Minister of such Ruler, the [2][Central Government] may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, 1898, any Court competent in other res- V of 1898. pects to take cognizance of such offence may take cognizance thereof on such complaint.

[3]* * * * * * * *

Power to forfeit certain publications or to detain them in the course of transmission through post.

3. The provisions of sections 99A to 99G of the Code of Criminal Pro- V of 1898. cedure, 1898, and of sections 27B to 27D of the Indian Post Office Act, 1898, VI of 1898. shall apply in the case of any book, newspaper or other document containing matter which is defamatory of a Ruler of a State outside but adjoining India or of the consort or son or principal Minister of such Ruler and tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State, in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections :

Provided that for the purposes of this section the said provisions shall be construed as if for the words "[4][Provincial Government]" wherever they occur, the words "[2][Central Government]" were substituted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 108; for Report of Select Committee, *see ibid.*, 1932, Pt. V, p. 99.
[2] Subs. by the A. O. for "G. G. in C."
[3] The *Explanation* to s. 2 rep. by the A. O.
[4] Subs. by the A. O. for "L. G."

4. Where, in any trial of an offence upon a complaint under section 2, or in any proceeding before a High Court arising out of section 3, there is a question whether any person is a Ruler of any State, or is the consort or son or principal Minister of such Ruler, a certificate under the hand of a Secretary to the [1][Central Government] that such person is such Ruler, consort, son or principal Minister shall be conclusive proof of that fact. Proof of status of persons defamed.

THE SUGAR INDUSTRY (PROTECTION) ACT, 1932.

Act No. XIII of 1932.[2]

[8th April, 1932.]

An Act to provide for the fostering and development of the sugar industry in British India.

Whereas it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the fostering and development of the sugar industry for a period ending with the 31st day of March, 1946, by determining the extent of the protection to be conferred up to the 31st day of March, 1938, and by making provision for the determination of the extent of the protection to be conferred for the remainder of the period, It is hereby enacted as follows —

1. This Act may be called the Sugar Industry (Protection) Act, 1932. Short title.

2. [*Amendment of Schedule II, Act VIII of 1894.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch*

3. The [3][Central Government] shall cause to be made, by such persons as [4][it] may appoint in this behalf, an inquiry to ascertain if the protection of the sugar industry during the period from the 31st day of March, 1938, to the 31st day of March, 1946, should be continued to the extent conferred by this Act, or to a greater or lesser extent, and shall, not later than the 31st day of March, 1938, lay [5][its] proposals in this behalf before the Indian Legislature. Statutory inquiry.

4. If the [3][Central Government] is satisfied after such inquiry as [4][it] thinks fit, that sugar not manufactured in India is being imported into British India at such a price as is likely to render insufficient the benefits intended to be conferred upon the sugar industry by the duties imposed by section 2, Power to increase duty imposed by section 2.

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[1] Subs by the A O for "G of I"
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p 43, for Report of Select Committee, *see ibid*, p 91
[3] Subs by the A O for "G. G in C"
[4] Subs by the A. O for "he"
[5] Subs by the A. O for "his".

THE FOREIGN RELATIONS ACT, 1932.

Act No. XII of 1932.[1]

[8th April, 1932.]

An Act to provide against the publication of statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States.

Whereas it is expedient to provide against the publication of statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Foreign Relations Act, 1932.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Power of Central Government to prosecute in certain cases of defamation.

2. Where an offence falling under Chapter XXI of the Indian Penal Code (XLV of 1860) is committed against a Ruler of a State outside but adjoining India, or against the consort or son or principal Minister of such Ruler, the [2][Central Government] may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, 1898 (V of 1898), any Court competent in other respects to take cognizance of such offence may take cognizance thereof on such complaint.

[3]* * * * * * * *

Power to forfeit certain publications or to detain them in the course of transmission through post.

3. The provisions of sections 99A to 99G of the Code of Criminal Procedure, 1898 (V of 1898), and of sections 27B to 27D of the Indian Post Office Act, 1898 (VI of 1898), shall apply in the case of any book, newspaper or other document containing matter which is defamatory of a Ruler of a State outside but adjoining India or of the consort or son or principal Minister of such Ruler and tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State, in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections:

Provided that for the purposes of this section the said provisions shall be construed as if for the words "[4][Provincial Government]" wherever they occur, the words "[2][Central Government]" were substituted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1931, Pt. V, p. 108; for Report [illegible] V, p. 99

[2]

[3]

[4]

CHAPTER II.

ENROLMENT, ATTESTATION, DISMISSAL, DISCHARGE AND REDUCTION.

SECTIONS.

CHAPTER III.

PUNISHMENTS AND PENAL DEDUCTIONS.

CHAPTER IV.

AIR FORCE OFFENCES.

[1][it] may, by notification in the [2][Official Gazette], increase such duty to such extent as [1][it] thinks fit.

Power to make rules requiring returns.

5. The [3][Central Government] may, by notification in the [2][Official Gazette], make rules requiring the owners of sugar factories in British India to make such returns relating to the production of sugar in their factories as the [3][Central Government] may consider to be desirable, prescribing the form of such returns, the dates of their submission and the authority to which they shall be submitted.

Power to make rules requiring notices of prices of sugar-cane to be posted up in sugar factories.

6. *(1)* The [4][Provincial Government] may, by notification in the [5][Official Gazette], make rules requiring that there shall be affixed, in conspicuous places near the entrances to sugar factories, notices for the information of sellers of sugar-cane, and such rules may prescribe the form and languages of such notices, and the particulars to be included therein relating to prices at which sugar-cane is being bought at the factory.

(2) In making such rules the [4][Provincial Government] may provide that a contravention thereof shall be punishable with fine which may extend *to five hundred rupees.*

Explanation.—In this section and in section 5 "factory" has the meaning assigned to it in clause *(3)* of section 2 of the Indian Factories Act, 1911.[6] XII of 1911.

SCHEDULE.—[AMENDMENTS TO BE MADE IN SCH. II TO THE INDIAN TARIFF ACT, 1894.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

THE INDIAN AIR FORCE ACT, 1932.

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[1] Subs. by the A. O. for "he".
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[3] Subs. by the A. O. for "G G in C."
[4] Subs by the A. O. for "L. G."
[5] Subs. by the A. O. for "local official Gazette".
[6] *See* now the Indian Factories Act, 1934 (25 of 1934), s. 2 *(j)*

CHAPTER II.

ENROLMENT, ATTESTATION, DISMISSAL, DISCHARGE AND REDUCTION.

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(*Chapter I.—Preliminary.*)

ACT NO. XIV OF 1932.[1]

[*8th April, 1932.*]

An Act to provide for the administration and discipline of the Indian Air Force.

WHEREAS it is intended to establish an Indian Air Force;

And whereas it is expedient to provide for the administration and discipline of that Force and for purposes connected therewith,

It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Air Force Act, 1932. **Short title and commencement.**

(*2*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

2. (*1*) The following persons shall be subject to this Act, namely :— **Persons subject to this Act.**

(*a*) officers and warrant officers of the Indian Air Force,

(*b*) persons enrolled under this Act;

(*c*) persons not otherwise subject to military [5][, naval] or air force law, who, on active service, in camp, on the march, or at any frontier post specified by the [3][Central Government] by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, the Indian Air Force.

(*2*) Every person who has become subject to this Act under sub-section (*1*), clause (*a*) or (*b*), shall remain so subject until duly discharged or dismissed.

3. (*1*) The [3][Central Government] may, by notification, direct that any persons or class of persons subject to this Act under section 2, sub-section (*1*), clause (*c*), shall be so subject as officers, warrant officers or non-commissioned officers, and may authorise any officer to give a like direction with respect to any such person and to cancel such direction. **Special provision as to rank in certain cases.**

(*2*) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (*1*) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 38; for Re-

(Chapter I.—Preliminary.)

Commanding officer of certain persons.

4. Every person subject to this Act under section 2, sub-section (*1*), clause (*c*), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, unit or detachment (if any) to which he is attached, and if he is not attached to any corps, unit or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force :

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

Officers to exercise powers in certain cases.

5. (*1*) Whenever persons subject to this Act are serving whether within or without India under an officer not subject to this Act, the [1][Central Government] may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding units, shall, as regards such persons, be exercised.

(*2*) The [1][Central Government] may confer such powers either absolutely or subject to such restrictions, reservations, exceptions and conditions as [2][it] may think fit.

Definitions.

6. In this Act, unless there is something repugnant in the subject or context,—

(*1*) " officer of the Indian Air Force " means a person commissioned, gazetted or in pay as an officer of the Indian Air Force ;

(*2*) " warrant officer " means a person appointed, gazetted or in pay as a warrant officer in the Indian Air Force ;

(*3*) " non-commissioned officer " means a person attested under this Act holding a non-commissioned rank in the Indian Air Force, and includes an acting non-commissioned officer ;

(*4*) " officer " means an officer of any of His Majesty's naval, military or air forces, but does not include a warrant officer or non-commissioned officer ;

(*5*) " airman " means any person subject to this Act other than an officer ;

(*6*) " commanding officer ", used in relation to a person subject to this Act, means the officer for the time being in command of the unit or detachment to which such person belongs or is attached ;

[1] Subs by the A. O. for " G. G. in C."
[2] Subs by the A. O. for " he ".

(Chapter I.—Preliminary.)

(*7*) " superior officer ", when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer; and, as regards persons placed under his orders, an officer, a warrant officer or non-commissioned officer of any of His Majesty's naval, military or air forces;

(*8*) " corps " means any body of the Indian Air Force which is prescribed as a corps for the purposes of all or any of the provisions of this Act;

(*9*) " unit " means any body of the Indian Air Force which is prescribed as a unit for the purposes of all or any of the provisions of this Act;

(*10*) " enemy " includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of a person subject to naval, military or air force law to act;

(*11*) " active service ", as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in warlike operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country, and includes, in respect of a person subject to this Act attached to or forming part of a force which is about to be or has recently been on such active service, such time as the [1][Central Government] may, by notification in the [2][Official Gazette], declare to be active service in respect of such force;

(*12*) " air force custody " means the arrest or confinement of a person according to the usages of His Majesty's military and air forces, and includes military custody;

(*13*) " air force reward " includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other air force pecuniary reward;

(*14*) " Court-martial " means a court-martial held under this Act;

(*15*) " criminal court " means a court of ordinary criminal justice in British India, or established elsewhere by the authority of the [1][Central Government or the Crown Representative];

(*16*) " offence " means any act or omission made punishable by any law for the time being in force;

(*17*) " air force offence " means any act or omission made punishable by this Act;

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[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " Gazette of India ".

(*18*) "civil offence" means an offence which, if committed in British India, would be triable by a criminal court;

[1] * * * * * * *

(*20*) "notification" means a notification published in the [2][Official Gazette];

(*21*) "prescribed" means prescribed by rules made under this Act; and

(*22*) all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. XLV of 1

CHAPTER II.

Enrolment, Attestation, Dismissal, Discharge and Reduction.

Procedure before enrolling officer.

7. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

Enrolment.

8. If, after complying with the provisions of section 7, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign and shall cause the person to sign the enrolment paper, and the person shall be then deemed to be enrolled.

Conditions for enrolment.

9. The enrolling officer shall not cause any person to sign the enrolment paper unless he is satisfied that such a person is a subject of His Majesty or of a Prince or Chief in India, and—

(*a*) is of unmixed Indian descent, or

(*b*) if he is of mixed Indian and non-Indian descent, is domiciled in India, or

(*c*) if he is of unmixed non-Indian Asiatic descent, is domiciled in India and his father and grandfather were domiciled in India.

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[1] Cl. (*19*) rep. by the Amending Act, 1934 (35 of 1934) s. 2 and Sch.
[2] Subs. by the A. O. for "Gazette of India".

(Chapter II.—Enrolment, Attestation, Dismissal, Discharge and Reduction.)

10. Every person who has for the space of six months been in the receipt of air force pay and been borne on the rolls of any unit shall be deemed to have been duly enrolled, notwithstanding any illegality or irregularity in his enrolment. Presumption of enrolment in certain cases.

11. The following persons shall be attested, namely :— Persons to be attested.

(a) all persons enrolled as combatants ;

(b) all other enrolled persons prescribed by the [1][Central Government].

12. (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his unit or such portion thereof as may be present, or by any other prescribed person. Mode of attestation.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to His Majesty, his heirs and successors, and that he will serve in the Indian Air Force and go wherever he is ordered by air, land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by his signature and by the signature of the officer administering the oath or affirmation

13. The [1][Central Government] may at any time dismiss from the service any person subject to this Act. Dismissal by Central Government.

14. The Air Officer Commanding His Majesty's Air Forces in India, or any prescribed officer, may at any time dismiss from the service any person subject to this Act other than an officer. Dismissal by the Air Officer Commanding or prescribed officer.

15. The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act. Discharge.

16. Any enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate setting forth— Certificate to person dismissed or discharged.

(a) the authority dismissing or discharging him ;

(b) the cause of his dismissal or discharge ; and

(c) the full period of his service in the Indian Air Force.

17. (1) Any enrolled person who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed. Discharge and dismissal out of India.

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[1] Subs. by the A. O. for "G. G. in C."

(*2*) Any person subject to this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed:

Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of imprisonment, a portion of such other punishment, may be inflicted before he is sent to India.

Reduction. **18.** (*1*) The Air Officer Commanding His Majesty's Air Forces in India, or any prescribed officer, may at any time reduce any warrant officer or any non-commissioned officer to a lower grade or to a lower rank or to the ranks, or any airman other than a warrant officer or non-commissioned officer to a lower class in the ranks.

(*2*) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

CHAPTER III.

Punishments and Penal Deductions.

Punishments. **19.** Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say,—

(*a*) death,

(*b*) imprisonment, which shall be of two degrees, namely:—

(i) long imprisonment, which shall be rigorous and for a term not less than three years and not exceeding fourteen years, and

(ii) short imprisonment, which may be rigorous or simple, for a term not exceeding two years;

(*c*) in the case of airmen, detention for a term not exceeding two years;

(*d*) dismissal from the service;

(*e*) in the case of officers and warrant officers, suspension from rank, pay and allowances for a period not exceeding two months;

(*f*) reduction, in the case of a warrant officer, or a non-commissioned officer, to a lower grade, or to a lower rank or to the ranks;

(*g*) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank;

(*h*) in the case of officers, warrant officers and non-commissined officers, reprimand or severe reprimand;

(*Chapter III.—Punishments and Penal Deductions.*)

(*i*) forfeitures and stoppages as follows, namely :—

(i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose ;

(ii) forfeiture of any military [1][, naval] or airforce decoration or military [1][, naval] or air force reward ,

(iii) forfeiture, in the case of a person sentenced to dismissal from the service, of all arrears of pay and allowances due to him at the time of such dismissal ;

(iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good ;

(v) on active service, forfeiture of pay and allowances for a period not exceeding three months.

20. Where in respect of any offence under this Act there is specified particular punishment, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment Power to award lower punishments.

21. (*1*) Where any person, subject to this Act and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb. Field punishment.

(*2*) Field punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

22. A sentence of a court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (*d*), (*f*), (*h*) and (*i*) of section 19. Combination of punishments.

23. A warrant officer or non-commissioned officer sentenced by court-martial to imprisonment, detention, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks. Reduction of non-commissioned officers and warrant officers to ranks.

24. When any enrolled person on active service has been sentenced by court-martial to dismissal or to imprisonment, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to imprisonment, such service shall be reckoned as part of his term of imprisonment. Retention in the ranks of person convicted on active service.

[1] Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

(*Chapter III.—Punishments and Penal Deductions.*)

Minor punishments.

25. (*1*) The [1][Central Government] may prescribe the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

(*2*) Detention and, *in the case of persons subject to this Act on active* service, any prescribed field punishment may be specified as minor punishments :

Provided that—

(*a*) the term of such detention or field punishment shall not exceed twenty-eight days ; and

(*b*) detention or field punishment shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

(*3*) The provisions of sections 77, 78 and 79 shall apply to the proceedings of officers empowered to award minor punishments under this section as if such officers were courts-martial.

Deductions from pay and allowances.

26. (*1*) The following penal deductions may be made from the pay and allowances of an officer of the Indian Air Force, that is to say,—

(*a*) all pay and allowances due to an officer who absents himself without leave or overstays the period for which leave of absence has been granted to him, unless a satisfactory explanation has been given to his commanding officer and has been approved by the [1][*Central Government*] ;

(*b*) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be determined by the court-martial by whom he is convicted of such offence ;

(*c*) any sum required to make good the pay of any officer or airman which he has unlawfully retained or unlawfully refused to pay ;

(*d*) any sum required to make good any loss, damage or destruction of public or service property which, after due investigation, appears to the [1][Central Government] to have been occasioned by any wrongful act or negligence on the part of the officer.

(*2*) The following penal deductions may be made from the pay and allowances of an airman, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment or detention awarded by a criminal court,

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[1] Subs. by the A. O. for "G. G. in C."

a court-martial or an officer exercising authority under section 25, or of field punishment, awarded by a court-martial or such officer ;

(*b*) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment, detention or field punishment by an officer exercising authority under section 25 ;

(*c*) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him ;

(*d*) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be prescribed ;

(*e*) all pay and allowances ordered by a court-martial to be suspended or forfeited ;

(*f*) any sum ordered by a court-martial to be stopped ,

(*g*) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments service necessaries, or military decoration, or to any buildings or property, as may be awarded by his commanding officer ,

(*h*) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 58 or an officer exercising authority under section 25 :

Provided that the total deductions from the pay and allowances of a person subject to this Act made under clauses (*e*) to (*g*), both inclusive, shall not (except in the case of a person sentenced to dismissal) exceed in any one month one-half of his pay and allowances for that month.

Explanation.—For the purposes of clauses (*a*) and (*b*)—

(i) no person shall be treated as absent, imprisoned, or detained, unless the absence, imprisonment, or detention has lasted six hours or upwards, except where the absence prevented the absentee from fulfilling any air force duty which was thereby thrown on some other person ;

(ii) a period of absence, imprisonment, or detention which commences before and ends after midnight may be reckoned as a day ;

(iii) the number of days shall be reckoned as from the time when the absence, imprisonment, or detention commences ; and

(iv) no period of less than twenty-four hours shall be reckoned as more than one day.

Deductions from public money other than pay.

27. Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

Remission of deductions.

28. Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent and by such authority as may from time to time be prescribed.

Provision for dependants of prisoners of war.

29. In the case of all persons subject to this Act being prisoners of war whose pay and allowances have been forfeited under section 26, but in respect of whom a remission has been made under section 28, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances

Unauthorised deductions forbidden.

30. The pay of an officer or airman of the Indian Air Force shall be paid without any deduction other than the deductions authorised by this Act or by any other enactment for the time being in force or prescribed by the [1][Central Government.]

CHAPTER IV.

AIR FORCE OFFENCES.

Service offences punishable with death.

31. Any person subject to this Act who—

(a) shamefully abandons or delivers up any garrison, fortress, post, or guard committed to his charge, or which it is his duty to defend, or

(b) shamefully casts away his arms, ammunition or tools in the presence of the enemy, or

(c) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or through cowardice sends a flag of truce to the enemy, or

(d) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner, or

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[1] Subs. by the A. O. for "G. G. in C."

(*e*) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy, or

(*f*) voluntarily does when on active service any act calculated to imperil the success of His Majesty's Forces or any part thereof, or

(*g*) treacherously or shamefully causes the capture or destruction by the enemy of any of His Majesty's aircraft, or

(*h*) treacherously gives any false air signal or alters or interferes with any air signal, or

(*i*) when ordered by his superior officer or otherwise under orders to carry out any warlike operation in the air, treacherously or shamefully fails to use his utmost exertions to carry such orders into effect,

shall be punishable with death.

Service offences punishable with long imprisonment.

32. Any person subject to this Act who, on active service,—

(*a*) without orders from his superior officer leaves the ranks in order to secure prisoners or horses, or on pretence of taking wounded men to the rear, or

(*b*) without orders from his superior officer wilfully destroys or damages any property, or

(*c*) is taken prisoner by want of due precaution or through disobedience of orders or wilful neglect of duty, or, having been taken prisoner, fails to rejoin His Majesty's service when able to do so, or

(*d*) without due authority either holds correspondence with, or gives intelligence, or sends a flag of truce to the enemy, or

(*e*) by word of mouth, or in writing, or by signals, or otherwise spreads reports calculated to create unnecessary alarm or despondency, or

(*f*) in action, or previously to going into action, uses words calculated to create alarm or despondency, or

(*g*) negligently causes the capture or destruction by the enemy of any of His Majesty's aircraft, or

(*h*) when ordered by his superior officer or otherwise under orders to carry out any warlike operation in the air, negligently or through other default fails to use his utmost exertions to carry such orders into effect, or

(*i*) misbehaves before the enemy in such manner as to show cowardice,

shall be punishable with long imprisonment.

(Chapter IV.—Air Force Offences.)

Service offences punishable more severely if committed on active service.

33. (*1*) Any person subject to this Act who treacherously makes known the watchword to any person not entitled to receive it, or treacherously gives a watchword different from what he received, shall, if he commits the offence on active service, be punishable with death, and, if he commits the offence not on active service, with short imprisonment.

(*2*) Any person subject to this Act who—

(*a*) without due authority alters or interferes with any air signal, or

(*b*) forces a safeguard, or

(*c*) forces or strikes a sentinel, or

(*d*) breaks into any house or other place in search of plunder, or

(*e*) being an airman acting as sentinel, sleeps or is intoxicated, or

(*f*) without orders from his superior officer leaves his guard, piquet, patrol or post, or

(*g*) by discharging fire arms, making signals, using words, or by any means whatever, intentionally occasions false alarms, or

(*h*) being an airman acting as sentinel, leaves his post before he is regularly relieved,

shall, if he commits the offence on active service, be punishable with long imprisonment and, if he commits the offence not on active service, with short imprisonment.

Service offences punishable with short imprisonment.

34. Any person subject to this Act who—

(*a*) by discharging fire arms, making signals, using words, or by any means whatever, negligently occasions false alarms, or

(*b*) makes known the watchword to any person not entitled to receive it, or, without good and sufficient cause, gives a watchword different from what he received, or

(*c*) impedes the provost-marshal or any assistant provost-marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost-marshal, or, when called on, refuses to assist in the execution of his duty the provost-marshal, the assistant provost-marshal, or any such officer, non-commissioned officer or other person, or

(*d*) uses criminal force to or commits an assault on any person bringing provisions or supplies to the forces, or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving, or

(*e*) irregularly detains or appropriates to his own unit or detachment any provisions or supplies proceeding to the forces, contrary to orders issued in that respect,

shall be punishable with short imprisonment.

(*Chapter IV.—Air Force Offences.*)

35. Any person subject to this Act who— Mutiny.

(*a*) begins, incites, causes or conspires with any other persons to cause any mutiny in any of His Majesty's naval, military or air forces, or

(*b*) joins in, or, being present, does not use his utmost endeavours to suppress, any such mutiny, or

(*c*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to commit such mutiny, or of any such conspiracy, does not without delay give information thereof to his commanding or other superior officer,

shall be punishable with death

36. Any person subject to this Act who— Insubordination punishable with long imprisonment.

(*a*) uses criminal force to or assaults his superior officer, being in the execution of his office, or

(*b*) disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office,

shall be punishable with long imprisonment.

37. Any person subject to this Act who— Insubordination punishable more severely if committed on active service.

(*a*) uses criminal force to or assaults his superior officer, or

(*b*) uses threatening or insubordinate language to his superior officer, or

(*c*) disobeys any lawful command given by his superior officer,

shall, if he commits the offence on active service, be punishable with long imprisonment, and, if he commits the offence not on active service, with short imprisonment.

38. Any person subject to this Act who— Insubordination punishable with short imprisonment.

(*a*) being concerned in any quarrel, affray or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or uses criminal force to or assaults any such officer, or

(*b*) uses criminal force to or assaults any person, whether subject to this Act or not, in whose custody he is placed, whether he is or is not his superior officer, or

(*c*) resists an escort whose duty it is to apprehend him or to have him in charge, or

(*d*) being an airman, breaks out of barracks, camp or quarters, or

(*e*) neglects to obey any general, local or other orders (not being orders in the nature of a rule or regulation published for the general information and guidance of the Indian Air Force),

shall be punishable with short imprisonment.

(Chapter IV.—Air Force Offences.)

Desertion.

39. Any person subject to this Act who deserts or attempts to desert the service shall, if he commits the offence when on active service or under orders for active service, be punishable with long imprisonment, and, if he commits the offence under any other circumstances, with short imprisonment.

Fraudulent enlistment.

40. Any person subject to this Act who, when belonging to the Indian Air Force, without having obtained a regular discharge therefrom, or otherwise fulfilled the conditions enabling him to enlist, enrol or enter, enrols himself, or enlists in or enters any other of His Majesty's air forces, or any of His Majesty's military or naval forces, or re-enrols himself in the Indian Air Force, shall be deemed to be guilty of fraudulent enlistment, and shall be punishable with short imprisonment.

Connivance at desertion.

41. Any person subject to this Act, who being cognisant of any desertion or intended desertion of a person subject to this Act, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be apprehended, shall be punishable with short imprisonment.

Absence from duty without leave.

42. Any person subject to this Act who—

(*a*) absents himself without leave, or

(*b*) fails to appear at the time fixed at a parade or place appointed for exercise or duty, or goes from thence without leave before he is relieved, or without necessity quits his duty or duties, or

(*c*) being an airman, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any place prohibited by any general, local or other order, without a pass or written leave from his superior officer, or

(*d*) being an airman, without leave from his superior officer, or without due cause, absents himself from any school when duly ordered to attend there,

shall be punishable with short imprisonment.

Scandalous conduct of officer.

43. Any officer or warrant officer subject to this Act who behaves in a manner unbecoming his position and character shall, notwithstanding anything contained in section 20, be dismissed from the service.

Scandalous conduct punishable with long imprisonment.

44. Any person subject to this Act who—

(*a*) steals any property of [1][the Crown] or dishonestly misappropriates or converts to his own use any property of [1][the Crown] entrusted to him, or

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[1] Subs. by the A. O. for "Govt."

(*Chapter IV.—Air Force Offences.*)

(*b*) dishonestly receives or retains any property in respect of which an offence under clause (*a*) has been committed, knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, or

(*c*) wilfully destroys or damages any property of [1][the Crown] entrusted to him, or

(*d*) steals any property of any air force mess, band or institution, or of any person subject to this Act or serving with or attached to the Indian Air Force, or dishonestly misappropriates or converts to his own use any such property entrusted to him, or

(*e*) dishonestly receives or retains any property in respect of which an offence under clause (*d*) has been committed, knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted,

shall be punishable with long imprisonment.

Scandalous conduct punishable with short imprisonment.

45. Any person subject to this Act who—

(*a*) does any act, not otherwise specified in this Act, with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person, or

(*b*) malingers or feigns or produces disease or infirmity himself, or intentionally delays his cure or aggravates his disease or infirmity, or

(*c*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person, or

(*d*) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission,

shall be punishable with short imprisonment.

Intoxication.

46. Any person subject to this Act who is found in a state of intoxication, whether on duty or not on duty, shall be punishable, if an officer, with dismissal from the service, and, if an airman, with short imprisonment.

Provided that where the offence of being intoxicated is committed by an airman not on active service or on duty, the sentence imposed shall not exceed detention for a period of six months.

Permitting escape of prisoner.

47. Any person subject to this Act who—

(*a*) when in command of a guard, piquet, patrol or post, releases without proper authority, whether voluntarily or otherwise, any person committed to his charge, or

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[1] Subs. by the A. O. for "Govt."

(Chapter IV.—Air Force Offences.)

(*b*) voluntarily or negligently allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall be punishable, if he has acted voluntarily, with long imprisonment, and, if he has not acted voluntarily, with short imprisonment.

Irregular keeping in custody.

48. Any person subject to this Act who—

(*a*) unnecessarily detains a person in arrest or confinement without bringing him to trial or fails to bring his case before the proper authority for investigation, or

(*b*) having committed a person to the custody of any officer, non-commissioned officer, provost-marshal, or assistant provost-marshal, fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within twenty-four hours thereafter, to the officer, non-commissioned officer, provost-marshal, or assistant provost-marshal, into whose custody the person is committed, an account in writing signed by himself of the offences with which the person so committed is charged, or

(*c*) being in command of the guard, does not as soon as he is relieved from his guard or duty, or if he is not sooner relieved, within twenty-four hours after a person is committed to his charge, give in writing to the officer to whom he may be ordered to report that person's name and offence so far as known to him, and the name and rank of the officer or other person by whom he was charged, accompanied, if he has received the account as above in this section mentioned, by that account,

shall be punishable with short imprisonment.

Escape from custody.

49. Any person subject to this Act, who, being in lawful custody, escapes or attempts to escape, shall be punishable with short imprisonment.

Offences relating to property.

50. Any person subject to this Act who—

(*a*) commits extortion, or without proper authority exacts from any person carriage, porterage or provisions, or

(*b*) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property, or

(*c*) voluntarily or negligently kills, injures, makes away with, ill-treats or loses any animal used in the public service, or

(*d*) makes away with, or is concerned in making away with, any arms, ammunition, equipments, instruments, tools, clothing or service necessaries issued to him or required to be maintained by him, or

(*e*) loses by neglect anything mentioned in clause (*d*), or

(Chapter IV.—Air Force Offences.)

(*f*) wilfully damages anything mentioned in clause (*d*) or any property belonging to [1][the Crown], or to any air force mess, band or institution, or to any person subject to air force law, or serving with, or attached to the Indian Air Force, or

(*g*) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall be punishable with short imprisonment

False accusations and offences relating to documents.

51. Any person subject to this Act who—

(*a*) makes a false accusation against any person subject to this Act, knowing such accusation to be false, or

(*b*) in making any complaint under section 120, knowingly makes any false statement affecting the character of any person subject to this Act, or knowingly and wilfully suppresses any material fact, or

(*c*) obtains or attempts to obtain for himself or for any other person any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any document or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement, or

(*d*) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to [1][the Crown] or to any person in or attached to the Indian Air Force, or who, wilfully or negligently, omits or refuses to make or send any return or report of the matters aforesaid,

shall be punishable with short imprisonment.

False answers on enrolment.

52. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer shall be punishable with short imprisonment

Offences relating to courts-martial.

53. Any person subject to this Act who—

(*a*) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any document or other thing which he may have been duly warned and called upon to produce or deliver up, or

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[1] Subs. by the A. O for "Govt."

(*b*) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting, or

(*c*) having been duly sworn or affirmed before any court-martial or other court or officer authorised by this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true,

shall be punishable with short imprisonment.

Offences relating to aircraft

54. Any person subject to this Act who—

(*a*) voluntarily or negligently damages, destroys or loses any of His Majesty's aircraft or aircraft material, or

(*b*) is guilty of any act or omission likely to cause such damage, destruction or loss, or

(*c*) is guilty of any act or omission (whether voluntary or otherwise) which causes damage to or destruction of any public property by fire, or

(*d*) without lawful authority disposes of any of His Majesty's aircraft or aircraft material, or

(*e*) is guilty of any act or omission in flying or in the use of any aircraft, or in relation to any aircraft or aircraft material which causes or is likely to cause loss of life or bodily injury to any person, or

(*f*) during a state of war voluntarily and without proper occasion or negligently causes the sequestration, by or under the authority of a neutral State, or the destruction in a neutral State of any of His Majesty's aircraft,

shall be punishable, if he has acted voluntarily, with long imprisonment, and if he has not acted voluntarily, with short imprisonment.

Miscellaneous air force offences.

55. Any person subject to this Act who—

(*a*) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position, or

(*b*) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority, or

(*c*) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person, or

(*d*) attempts to commit suicide and does any act towards the commission of such offence, or

(*e*) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazar, carrying a sword, bludgeon or other offensive weapon, or

(*f*) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service, or

(*g*) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and air force discipline,

shall be punishable with short imprisonment.

56. Any person subject to this Act who attempts to commit an air force offence or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence may, where no express provision is made by this Act for the punishment of such attempt, be punished with the punishment provided in this Act for such offence Attempts

57. Any person subject to this Act who abets the commission of any air force offence, or of any offence punishable under the Army Act, [1][the Naval Discipline Act or that Act as modified by the Indian Navy (Discipline) Act, 1934,] the Air Force Act or the Indian Army Act, 1911, such offence being of the same nature as any air force offence, shall be punishable with the punishment provided in this Act for such air force offence. Abetment.

44 & 45 Vict, c. 53. 29 & 30 Vict, c. 109. XXXIV of 1934. 7 Geo. 5, c. 51. VIII of 1911.

58. (*1*) Any person subject to this Act who at any place in or beyond British India commits any civil offence shall be deemed to be guilty of an air force offence, and, if charged therewith under this section, shall be liable to be tried by court-martial and to be punished as follows, that is to say :— Civil offences.

(*a*) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law of British India ; and

(*b*) in other cases, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and air force discipline :

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[1] Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

Provided that a person subject to this Act who, at any place in British India or at any place in which [1][the Central Government or the Crown Representative] exercises powers and jurisdiction by virtue of [2][the Government of India Act, 1935, or of any Order in Council made under the Foreign Jurisdiction Act, 1890], and while not on active service, commits an offence of murder or culpable homicide against a person not subject to this Act or an offence of rape, shall not be deemed to be guilty of an air force offence and shall not be tried by court-martial.

26 Geo. 5, c. 2. 53 & 54 Vict. c. 37.

(2) The powers of a court-martial to charge and to punish any person under this section shall not be affected by reason of the civil offence with which such person is charged being also an air force offence.

CHAPTER V.

Arrest and Proceedings before Trial.

Custody of offenders.

59. (1) Any person subject to this Act who is charged with an offence may be taken into air force custody.

(2) Any such person may be ordered into air force custody by any superior officer.

(3) The charge against every person taken into air force custody shall, without unnecessary delay, be investigated by the proper authority, and as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

Arrest by civil authorities.

60. Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police-officer, such Magistrate or officer shall aid in the apprehension and delivery to air force custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Capture of deserters

61. (1) Whenever any person subject to this Act deserts, his commanding officer shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to air force custody.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

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[1] Subs. by the A. O. for "the G. G. in C."
[2] Subs by the A. O. for "the Indian (Foreign Jurisdiction) Order in Council, 1902".

62. (*1*) When any person subject to this Act has been absent without due authority from his duty for a period of twenty-one days, a court of inquiry shall, as soon as practicable, be assembled and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of [1][the Crown] entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the unit to which the person belongs shall enter in the court-martial book of the unit a record of the declaration. Inquiry on absence without leave.

(*2*) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

63. For the prompt and instant repression of irregularities and offences committed in the field or on the march, provost-marshals may be appointed by the Air Officer Commanding His Majesty's Air Forces in India, and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service. Provost-marshal.

64. The duties of a provost-marshal so appointed are to take charge of persons in air force custody, to preserve good order and discipline and to prevent breaches thereof by persons subject to this Act Duties and powers.

He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial.

CHAPTER VI.

Constitution, Jurisdiction and Powers of Courts-martial.

65. For the purposes of this Act there shall be three kinds of courts-martial, that is to say,— Kinds of courts-martial.

(*1*) general courts-martial,

(*2*) district courts-martial; and

(*3*) field general courts-martial.

66. A general court-martial may be convened by the [2][Central Government], or by any officer empowered in this behalf by warrant of the [2][Central Government]. Power to convene general courts-martial.

[1] Subs. by the A. O. for "the Govt."
[2] Subs by the A. O. for "G. G. in C."

(Chapter VI.—Constitution, Jurisdiction and Powers of Courts-martial.)

Power to convene district courts-martial

67. A district court-martial may be convened by any authority having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such authority.

Limitation of powers of convening authorities.

68. A warrant issued under section 66 or section 67 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Convening of field general courts-martial

69. The following authorities shall have power to convene a field general court-martial, that is to say,—

(*a*) an authority empowered in this behalf by an order of the [1][Central Government],

(*b*) on active service, the commanding officer of the forces in the field, or any officer empowered by him in this behalf;

(*c*) the commanding officer of any detached portion of the Indian Air Force on active service, when, in his opinion, it is not practicable, with due regard to discipline or the exigencies of the service, that an offence should be tried by a general court-martial, and circumstances prevent a reference to higher authority.

Composition of general courts-martial

70. A general court-martial shall consist of not less than five officers each of whom must have held a commission during not less than three whole years and of whom not less than four must be of a rank not below that of a flight lieutenant.

Composition of district courts-martial

71. A district court-martial shall consist of not less than three officers.

Composition of field general courts-martial.

72. A field general court-martial shall consist of not less than three officers.

Dissolution of courts-martial.

73. (*1*) If a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved.

(*2*) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(*3*) Where a court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction and powers of courts-martial generally.

74. Save as otherwise provided by or under this Act, courts-martial shall have—

(*a*) jurisdiction to try and to punish all air force offences, and all civil offences committed by persons subject to this Act;

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[1] Subs. by the A. O. for " G. G. in C."

(b) exclusive jurisdiction to try all air force offences which are not also civil offences ; and

(c) exclusive power to award the punishments specified in this Act.

Jurisdiction and powers of general and field general courts-martial.

75. A general or field general court-martial shall have power to try any person subject to this Act for any offence made punishable therein, and to pass any sentence authorised by this Act.

Jurisdiction and powers of district courts-martial

76. A district court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death or imprisonment for a term exceeding two years.

Prohibition of second trial.

77. When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 25, he shall not be liable to be tried again for the same offence by a court-martial.

Limitation of trial.

78. No trial by court-martial of any person subject to this Act for any offence (other than an offence of mutiny, desertion or fraudulent enlistment) shall be commenced after the expiration of three years from the date of such offence, and no such trial for an offence of desertion (other than desertion on active service) or of fraudulent enlistment shall be commenced if the person in question has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of His Majesty's regular forces.

Explanation.—For the purposes of this section "mutiny" means any of the offences specified in section 35

Place of trial

79. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

Order in case of concurrent jurisdiction of criminal court and court-martial.

80. When a criminal court and a court-martial have each jurisdiction in respect of a civil offence, it shall be in the discretion of the prescribed air force authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in air force custody

Power of criminal court to require delivery of offender.

81. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any civil offence, it may, by written notice, require the prescribed air force authority at the option of such authority either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the [1][Central Government].

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[1] Subs by the A O for "G G. in C"

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the [1][Central Government], whose order upon such reference shall be final.

Trial by court-martial no bar to subsequent trial by criminal court.

82. (1) Notwithstanding anything contained in section 26 of the General Clauses Act, 1897, or in section 403 of the Code of Criminal Procedure, 1898, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts. X of 1897. V of 1898.

(2) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal court for the same offence or on the same facts, that court shall, in awarding punishment, have regard to the air force punishment he may already have undergone.

CHAPTER VII.

Procedure of Courts-martial.

President

83. At every court-martial the senior member shall sit as president.

Judge Advocate.

84. Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General in India, or, if no such officer is available, a fit person appointed by the convening officer

Challenges.

85. (1) At all trials by courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

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[1] Subs. by the A. O. for "G. G. in C."

(*Chapter VII.—Procedure of Courts-martial.*)

Voting of members. **86.** (*1*) Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused:

Provided that no sentence of death shall be passed without the concurrence of two-thirds at the least of the members of the court.

(*2*) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

Oaths of president and members. **87.** An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge advocate at the beginning of the trial

Oaths of witnesses **88.** Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

The summoning of witnesses and production of documents. **89.** (*1*) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing

(*2*) In the case of a witness amenable to air force [1][, naval] or military authority, the summons shall be sent to the officer commanding the corps, [1][ship,] unit, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(*3*) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the court of such Magistrate.

(*4*) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

I of 1872. (*5*) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any document in the custody of the postal or telegraph authorities.

(*6*) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(*7*) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities,

[1] Ins by the Amending Act, 1934 (35 of 1934), s. 2 and Sch

(Chapter VII.—Procedure of Courts-martial.)

General rule as to evidence. 92. The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a court-martial. I of 1872.

Judicial notice. 93. A court-martial may take judicial notice of any matter within the general, naval, military or air force knowledge of the members.

Presumption as to signatures. 94. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in [1][the service of the Crown] shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Enrolment paper as evidence. 95. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper

Presumption as to certain documents. 96. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in, or belonged to, any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the [2][Central Government] or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document

(2) An Army List, [3][Navy List,] Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, [3][ship,] unit, battalion, arm, branch or department of the service to which such officers or warrant officers belong.

(3) Where a record is made in any service book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of air force duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any service book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a provost-marshal,

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[1] Subs. by the A. O. for "the civil, military or air force service of the Govt."
[2] Subs. by the A. O. for "G. G. in C."
[3] Ins. by the Amending Act, 1934 (35 of 1934), s 2 and Sch.

Assistant provost-marshal or other officer, or any portion of His Majesty's Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Majesty's Forces and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(*6*) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters stated.

(*7*) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

97. (*1*) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in [1][the service of the Crown], or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received. **Reference by accused to Government officer.**

(*2*) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(*3*) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

98. (*1*) When any person subject to this Act has been convicted by a court-martial of any offence such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial established under this Act or any other enactment or by a criminal court, and may further inquire into and record the service character of such person. **Evidence of previous convictions and service character.**

(*2*) Evidence received under this section may be either oral or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or service character will be received.

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[1] Subs. by the A. O. for "the civil, military or air force service of Govt."

Order for custody and disposal of property pending trial in certain cases

99. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

CHAPTER VIII.

CONFIRMATION, REVISION, PARDON AND REMISSION OF SENTENCES.

Finding and sentence invalid without confirmation.

100. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

Power to confirm finding and sentence of general court-martial.

101. The findings and sentences of general courts-martial may be confirmed by the [1][Central Government] or by any officer empowered in this behalf by warrant of the [1][Central Government].

Power to confirm finding and sentence of district court-martial

102. The findings and sentences of district courts-martial may be confirmed by any authority having power to convene a general court-martial or by any officer empowered in this behalf by warrant of any such authority.

Limitation of powers of confirming authorities.

103. A warrant issued under section 101 or section 102 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Confirmation of finding and sentence of field general court-martial.

104. *(1)* Save as provided in sub-sections *(2)* and *(3)*, a finding and sentence of a field general court-martial shall not require to be confirmed, and may be carried out forthwith.

(2) The finding and sentence of a field general court-martial shall require to be confirmed—

(a) in the case of the trial of an officer,
(b) in the case of a sentence of death or of imprisonment for a term exceeding two years, and
(c) in any other case if so ordered by the convening authority.

(3) Such finding and sentence may be confirmed by the convening authority or, if the convening authority so directs, by an authority, superior to the convening authority.

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[1] Subs. by the A. O. for "G. G. in C."

(Chapter VIII.—Confirmation, Revision, Pardon and Remission of Sentences.)

105. Subject to such restrictions as may be contained in any warrant issued under section 101 or section 102, a confirming authority may, if it confirms the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 19. **Power of confirming authority to mitigate, remit or commute sentences.**

106. When any person subject to this Act is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation. **Confirmation of finding and sentence on board ship.**

107. (*1*) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming authority; and on such revision, the court, if so directed by the confirming authority, may take additional evidence. **Revision of finding or sentence.**

(*2*) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(*3*) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a district court-martial, of three officers.

108. Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority which would have had power under section 110 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence **Substitution of valid for invalid sentence.**

Provided that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

109. (*1*) Whenever, in the course of a trial by court-martial, it appears to the court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged, but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law, the court shall record a finding accordingly, and the president of the court shall forthwith report the case to the confirming authority, or, in the case of a field general court-martial, to the prescribed officer. **Provision where accused is a lunatic.**

(*2*) A confirming authority to whom a case is reported under sub-section (*1*) may, if it does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(*3*) A prescribed officer to whom a case is reported under sub-section (*1*) and a confirming authority confirming a finding in any case so reported to it shall order the accused person to be kept in custody in the prescribed

manner, and, where the confirming authority is not itself the [1][Central Government], shall report the case for the orders of the [1][Central Government].

(*4*) On receipt of a report under sub-section (*1*) or sub-section (*3*), the [1][Central Government] may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(*5*) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention, the prescribed officer may—

(*a*) if such person is in custody under sub-section (*3*), on the report of a medical officer that he is capable of making his defence, or

(*b*) if such person is detained under sub-section (*4*), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898, V of 1898.

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a criminal court.

(*6*) A copy of every order made by the prescribed officer under sub-section (*5*) shall forthwith be sent to the [1][Central Government].

Pardons and remissions.

110. (*1*) When any person subject to this Act has been convicted by a court-martial of any offence, the [1][Central Government] or the prescribed officer may—

(*a*) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act.

(*2*) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted:

Provided that in the case of a person sentenced to imprisonment, such person shall undergo only the unexpired portion of his sentence.

(*3*) When under the provisions of section 23 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial.

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[1] Subs. by the A. O. for "G. G. in C."

CHAPTER IX

EXECUTION OF SENTENCES AND DISPOSAL OF PROPERTY.

111. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death. Sentence of death.

112. Whenever any person is sentenced under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president. Commencement of sentence of imprisonment.

113. Whenever any sentence of imprisonment is passed under this Act, or whenever any sentence so passed is commuted to imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant : Execution of sentence of imprisonment.

Provided that, in the case of a sentence of imprisonment for a period not exceeding three months, the confirming authority, or, in the case of a sentence which does not require confirmation, the court, may direct that the sentence shall be carried out by confinement in air force custody

Provided further that on active service a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may, from time to time, appoint.

114. Whenever, in the opinion of the Air Officer Commanding His Majesty's Air Forces in India, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of section 113, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place. Execution of sentence of imprisonment in special cases.

115. When any sentence of detention is passed under this Act, or when any sentence so passed is commuted to detention, the punishment shall be carried out by detaining the offender in any military or air force detention barracks, detention cells or other military or air force custody. Execution of sentence of detention.

116. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined. Communication of certain orders to civil prison officers.

117. Where a sentence of transportation is imposed by court-martial under section 58, the offender, until he is transported, shall be dealt with in the same manner as if he had been sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment. Offenders sentenced to transportation how dealt with until transported.

Execution of sentence of fine.

118. When a sentence of fine is imposed by a court-martial under section 58 whether the trial was held within British India or not, a copy of such sentence, signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898, for the levy of fines as if it was a sentence of fine imposed by such Magistrate. V of 1898.

Order for disposal of property regarding which offence committed

119. *(1)* After the conclusion of a trial before any court-martial, the court or the authority confirming its finding or sentence or any authority superior to such authority, or in the case of a finding or sentence which does not require confirmation, the officer commanding the unit within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence

(2) Where any order has been made under sub-section *(1)* in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within British India or not, be sent to a Magistrate in any presidency-town or district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Explanation.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

CHAPTER X.

SPECIAL RULES RELATING TO PERSONS AND PROPERTY.

Complaints against superior officers and airmen.

120. *(1)* If an officer of the Indian Air Force thinks himself wronged by his commanding officer, or other superior officer, and on due application made to his commanding officer does not receive the redress to which he may consider himself entitled, he may complain to the [1][Central Government] in order to obtain justice.

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[1] Subs. by the A. O. for "G. G. in C."

(2) If any airman thinks himself wronged in any matter by any officer other than the officer under whose command or orders he is serving, or by any airman, he may complain thereof to the officer under whose command or orders he is serving, and if he thinks himself wronged by the officer under whose command or orders he is serving, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer, and if he thinks himself wronged by his commanding officer, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the prescribed officer; and every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

121. (*1*) No president or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process. **Privileges of persons attending courts-martial.**

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

122. (*1*) No officer or person enrolled in the Indian Air Force shall be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer. **Exemption from arrest for debt.**

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the court by the complainant.

123. Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him. **Property exempted from attachment.**

124. Every person belonging to the Indian Air Force Reserve shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 122 and 123 to a person subject to this Act. **Application to reservists.**

(Chapter X.—Special Rules relating to Persons and Property.)

Priority of hearing by courts of cases in which persons subject to this Act are concerned.

125. *(1)* On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper air force authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper air force authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper air force authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a unit, whose decision shall be final.

Property of deceased persons and deserters.

126. The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts :—

(1) The commanding officer of the unit to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper official of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the service or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses *(1)* and *(2)* to that representative.

(*4*) In the case of a deceased person whose estate is not dealt with under clause (*3*), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the service and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (*1*) and from the amount of the deposit (if any) received under clause (*2*).

(*5*) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or, in the event of no claim to such surplus being established within twelve months after the death, be remitted to the prescribed person.

(*6*) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended.

Meaning of deserter.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of twenty-one days and has not subsequently surrendered or been apprehended.

Disposal of certain property without production of probate, etc.

127. Property deliverable and money payable to the representative of a deceased person under section 126 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title, and such delivery or payment shall be a full discharge to those ordering or making the same and to the [1][Crown] from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor of a deceased person against any person to whom such delivery or payment has been made.

Application to lunatics and persons missing on active service.

128. The provisions of section 126 shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane or who, being on active service, is officially reported missing:

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (*2*) to (*5*), inclusive, of the said section, until one year has elapsed from the date of such report.

[1] Subs. by the A. O. for "Secretary of State for India in Council".

(Chapter X.—Special Rules relating to Persons and Property.)

Priority of hearing by courts of cases in which persons subject to this Act are concerned

125. *(1)* On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper air force authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper air force authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper air force authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a unit, whose decision shall be final.

Property of deceased persons and deserters.

126. The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts :—

(1) The commanding officer of the unit to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper official of the bank to pay the deposit to him forthwith, notwithstanding anything in any departmental rules, and after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the service or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses *(1)* and *(2)* to that representative.

(*Chapter X.—Special Rules relating to Persons and Property.*)

(*4*) In the case of a deceased person whose estate is not dealt with under clause (*3*), and in the case of any deserter, the commanding officer shall cause the moveable property to be sold by public auction, and shall pay the service and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale and from any pay and allowances drawn under clause (*1*) and from the amount of the deposit (if any) received under clause (*2*).

(*5*) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or, in the event of no claim to such surplus being established within twelve months after the death, be remitted to the prescribed person.

(*6*) In the case of a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended

Meaning of deserter

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has without authority been absent from duty for a period of twenty-one days and has not subsequently surrendered or been apprehended.

Disposal of certain property without production of probate, etc.

127. Property deliverable and money payable to the representative of a deceased person under section 126 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title ; and such delivery or payment shall be a full discharge to those ordering or making the same and to the [1][Crown] from all further liability in respect of the property or money ; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor of a deceased person against any person to whom such delivery or payment has been made

Application to lunatics and persons missing on active service.

128. The provisions of section 126 shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane or who, being on active service, is officially reported missing :

Provided that, in the case of a person so reported missing, no action shall be taken under sub-sections (*2*) to (*5*), inclusive, of the said section, until one year has elapsed from the date of such report.

[1] Subs. by the A. O. for "Secretary of State for India in Council".

CHAPTER XI.

SUPPLEMENTAL.

Power to make rules.

129. (*1*) The [1][Central Government] may make rules[2] for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the discharge from the service of persons subject to this Act;

(*b*) the specification of the punishments which may be awarded as field punishments under sections 21 and 25;

(*c*) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts;

(*d*) the convening and constituting of courts-martial;

(*e*) the adjournment, dissolution and sittings of courts-martial;

(*f*) the procedure to be observed in trials by courts-martial;

(*g*) the confirmation and revision of the findings and sentences of courts-martial;

(*h*) the carrying into effect sentences of courts-martial;

(*i*) the forms of orders to be made under the provisions of this Act relating to courts-martial and imprisonment,

(*j*) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 29, and the due carrying out of such decisions; and

(*k*) any matter in this Act directed to be prescribed.

(*3*) All rules made under this Act shall be published in the [3][Official Gazette], and, on such publication, shall have effect as if enacted in this Act.

130. [*Amendment of certain enactments.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2. and Sch.*

SCHEDULE.—[*Amendments.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE PORT HAJ COMMITTEES ACT, 1932.

CONTENTS.

SECTIONS.

[1] Subs. by the A. O. for "G. G. in C."
[2] *See* the Indian Air Force Act Rules, published in the Gazette of India, 1933, Pt I, pp. 374 to 434, as subsequently amended.
[3] Subs. by the A. O. for "Gazette of India".

SECTIONS.

ACT No. XX OF 1932.[1]

[*1st October, 1932.*]

An Act to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hedjaz.

WHEREAS it is expedient to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hedjaz ; It is hereby enacted as follows —

1. (*1*) This Act may be called the Port Haj Committees Act, 1932. Short title, extent and commencement.

(*2*) It extends in the first instance to the Presidencies of Bombay and Bengal, but the [2][Central Government] may, by notification in the [3][Official Gazette], extend it to any other maritime Province.

(*3*) This section shall come into force at once, and the remaining provisions of this Act shall come into force in any Province to which the Act extends on such date as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint[4] in this behalf.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 157 ; for

on the 30th November, 1933, *see ibid* , p. 1182.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) a "pilgrim" means a Muslim proceeding on or returning from pilgrimage to the Hedjaz; and

(*b*) a "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez.

Initiation of Port Haj Committees.

3. As soon as may be after this Act comes into force in the Presidency of Bengal, there shall be constituted a committee, to be called the Port Haj Committee of Calcutta, and as soon as this Act comes into force in the Presidency of Bombay, there shall be constituted two committees, to be called the Port Haj Committee of Bombay and the Port Haj Committee of Karachi, respectively.

Composition of Port Haj Committees.

4. (*1*) The Port Haj Committee of Calcutta shall consist of nineteen members as follows:—

(*a*) seven members to be nominated by the [1][Central Government], of whom not more than five shall be officials,

(*b*) two members to be elected by the elected Muslim Councillors and elected Muslim Aldermen of the Corporation of Calcutta;

(*c*) six members to be elected by an electorate consisting of—

(*i*) the elected Muslim members of [2][the Chambers of the Bengal Legislature],

(*ii*) the Muslim members of [3][the Chambers of the Central Legislature], elected [4][for, or for any part of,] Bengal, and

(*iii*) the elected Muslim members of the Bengal Medical Council; and

(*d*) four members to be co-opted by the elected members of the Committee.

(*2*) The Port Haj Committee of Bombay shall consist of nineteen members as follows:—

(*a*) seven members to be nominated by the [1][Central Government], of whom not more than five shall be officials;

(*b*) two members to be elected by the elected Muslim members of the Municipal Corporation of the City of Bombay;

(*c*) six members to be elected by an electorate consisting of—

(*i*) the elected Muslim members of [5][the Chambers of the Bombay Legislature],

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[1] Subs. by the A. O for "L. G".
[2] Subs. by the A. O. for "the Bengal Legislative Council".
[3] Subs. by the A. O. for "the Council of State and of the Legislative Assembly".
[4] Subs. by the A. O. for "by constituencies in the Presidency of".
[5] Subs. by the A. O. for "the Bombay Legislative Council".

(*ii*) the Muslim members of [1][the Chambers of the Central Legislature], elected [2][for, or for any part of,] Bombay, and

(*iii*) the elected Muslim members of the Bombay Medical Council; and

(*d*) four members to be co-opted by the elected members of the Committee.

(*3*) The Port Haj Committee of Karachi shall consist of seventeen members as follows :—

(*a*) six members to be nominated by the [3][Central Government], of whom not more than five shall be officials;

(*b*) two members to be elected by the elected Muslim members of the Municipality of Karachi;

[4][(*c*) five members to be elected by an electorate consisting of—

(*i*) the elected Muslim members of the Sind Legislature, and

(*ii*) the Muslim members of the Chambers of the Central Legislature, elected for, or for any part of, Sind,] and

(*d*) four members to be co-opted by the elected members of the Committee

(*4*) An elected member of a Port Haj Committee need not be a member of the electorate which elects him.

(*5*) A member of a Port Haj Committee nominated by [5][the Central Government] may be nominated by virtue of office.

Power to alter composition of Port Haj Committee.

[6][**5.** The Central Government may, after previous publication, make rules altering the composition of a Port Haj Committee.]

Constitution of Port Haj Committees in other ports

6. (*1*) When any port, other than Calcutta, Bombay or Karachi, situated in any Province to which this Act extends, is appointed to be a port for pilgrim traffic in pursuance of sub-section (*1*) of section 150 of the Indian Merchant Shipping Act, 1923, the [7][Central Government] may, subject to the condition of previous publication, make rules providing for the composition of a Port Haj Committee for such port, and shall cause the Committee to be constituted accordingly. (XXI of 1923.)

(*2*) The provisions of this Act shall apply to such Committee when constituted

Nominations, elections and co-options

7. (*1*) The election and co-option of members of Port Haj Committees shall be conducted in accordance with rules to be made in this behalf by the [3][Central Government].

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[1] Subs by the A. O for "the Council of State and of the Legislative Assembly".
[2] Subs by the A O for "by constituencies in the Presidency of".
[3] Subs by the A. O. for "L. G"

(c) determining the conditions of service of an Executive Officer and other officers and servants;

(d) prescribing the powers and duties of the Executive Officer in so far as they are not prescribed by this Act; and

(e) prescribing the powers and duties of the other officers and servants of a Port Haj Committee.

(3) Rules made under sub-section (2) may authorise a Port Haj Committee to make by-laws providing for any of the matters specified in that sub-section in so far as such matters are not provided for in the rules.

Delegation to Port Haj Committee of control over its officers and servants

15. (1) Within the period of four years referred to in sub-section (1) of section 14 the [1][Central Government] may, and on the expiry of that period the [1][Central Government] shall, by notification in the [2][Official Gazette], authorise a Port Haj Committee to appoint its Executive Officer, and to appoint such other officers and servants as the Committee may deem to be necessary for the efficient discharge of its duties.

(2) Such authorisation may impose such restrictions and conditions as the [1][Central Government] may think fit.

(3) A Port Haj Committee so authorised may make by-laws providing for any of the matters specified in sub-section (2) of section 14, and may cancel any rule made under that sub-section in so far as it applies to such Committee and its officers and servants.

Payment of salaries, etc., of officers and servants.

16. The pay and allowances and expenses lawfully incurred in respect of an Executive Officer or other officer or servant appointed by the [1][Central Government] under section 14 shall be paid by the [3][Central Government] and the pay, allowances and expenses lawfully incurred in respect of an Executive Officer or other officer or servant appointed by a Committtee under section 15 shall be paid by the Committee out of the funds at its disposal.

Meetings of Committees and conduct of business.

17. (1) A Port Haj Committee shall meet at least once in every month during the four months before the Haj Day and during the two months after the Haj Day, and at least once in each three months during the rest of the year.

(2) The number of members required to make a quorum at any meeting shall be six.

(3) All matters shall be decided by a majority of the members present, and in the event of an equality of votes the Chairman or other person presiding shall have a casting vote.

(4) A Port Haj Committee may make by-laws—

(a) regulating the convening of its meetings;

(b) regulating the conduct of business at its meetings;

(c) prescribing the registers and records which shall be maintained;

(d) providing for the publication of its proceedings and of any other matters of interest to pilgrims; and

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[1] Subs. by the A. O. for "L. G."
[2] Subs by the A. O. for "local official Gazette".
[3] Subs. by the A. O for "G. G. in C."

(e) providing for any other matter which the Committee may deem necessary for the regulation of its meetings and its business:

Provided that the [1][Central Government] may, at any time before the first meeting of a Committee after the commencement of this Act, frame instructions for the Committee on all or any of the matters specified in this sub-section, and such instructions shall be deemed to be by-laws made by the Committee under this sub-section until they are superseded by by-laws so made

(5) Anything done or any proceeding taken by a Port Haj Committee shall not be questioned on the ground of any vacancy in the committee, or on account of any defect or irregularity not affecting the merits of the case.

Duties of Port Haj Committees.

18. (1) The duties of a Port Haj Committee shall be—

(a) to collect and disseminate information useful to pilgrims;

(b) to advise and assist pilgrims during their stay at the port, while proceeding to or returning from the Hedjaz, in all matters including vaccination, inoculation, medical inspection and issue of passes and passports, and to co-operate with the local authorities concerned in such matters,

(c) to give relief to indigent pilgrims,

(d) to negotiate and co-operate with railways and shipping companies for the purpose of securing travelling facilities for pilgrims;

(e) to find suitable Muslims for employment by shipping companies on pilgrim ships,

XXI of 1923.

(f) to bring the grievances of pilgrims and any irregularities or omissions on the part of a master or owner of a pilgrim ship in the carrying out of the provisions of the Indian Merchant Shipping Act, 1923, to the notice of the authorities concerned, and to suggest remedies,

(g) to authorise whenever practicable an individual pilgrim or a committee of pilgrims on board a pilgrim ship to represent the grievances of the pilgrims to the master or owner of the ship, and

(h) such other duties in connection with the pilgrim traffic as may be entrusted to it by [2][the Central Government].

(2) [3][The Central Government] shall afford all reasonable assistance to the Port Haj Committee in the discharge of the duties imposed by this section.

Inspection of pilgrim ships.

19. (1) Each Port Haj Committee shall appoint one or more sub-committees composed of two of its members, whose duties shall be the inspection of pilgrim ships.

(2) Any such sub-committee when inspecting a pilgrim ship shall be accompanied by the certifying officer appointed for the port under section 151 of

[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "Govt."
[3] Subs. by the A. O. for "The L. G."

the Indian Merchant Shipping Act, 1923, or by the Surveyor of the ship or other person deputed by the certifying officer. XXI of 1923.

(3) The Executive Officer of a Port Haj Committee or a sub-committee appointed under sub-section (1) may enter and inspect any pilgrim ship advertised or offering to sail from or which has returned to the port for which the Committee is constituted.

(4) A master or any officer of a pilgrim ship who fails to render every reasonable facility for such inspection shall be punishable with fine which may extend to five hundred rupees.

(5) No Magistrate other than a Presidency Magistrate or Magistrate of the first class shall take cognizance of an offence punishable under sub-section (4), and such Magistrate shall take cognizance of such offence only on written complaint by the Chairman of the Port Haj Committee concerned.

Haj Funds.

20. In each port in which there is a Port Haj Committee there shall be created a fund, to be called the Haj Fund of the port concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise or have arisen in the port concerned, namely :—

(a) the interest on all deposits made by pilgrims under clause (b) of section 208A of the Indian Merchant Shipping Act, 1923 ; XXI of 1923.

(b) sums realised from the sale of the effects of deceased pilgrims and sums of money left by deceased pilgrims, which are unclaimed and have [1][lapsed to the Crown] ;

(c) any fees which may be levied for the issue of visitors' passes to friends and relations of pilgrims who desire to go on board a pilgrim ship ;

(d) the amount now standing to the credit of the fund known as the Indigent Pilgrims' Fund : provided that such amount shall be applied by the Committee solely for the relief of indigent pilgrims ;

(e) any sums received by the Haj Fund from private sources ; and

(f) any sums [2][allotted by the Central or any Provincial Government] to the Haj Fund.

Application of the Haj Fund.

21. A Haj Fund of a port shall, subject to rules made under section 22, be under the control and management of the Port Haj Committee for that port, and shall be applicable to the payment of charges and expenses incidental to the objects specified in section 18, and of any other object specified by rules made under clause (c) of section 22.

Power to make rules for the financial control of Committees.

22. [3][The Central Government may] make rules—

(a) providing for the custody of Haj Funds ;

(b) regulating the investment of balances of Haj Funds ;

(c) prescribing the objects to which Haj Funds shall be applicable, in addition to those prescribed in section 18 ;

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[1] Subs. by the A. O. for "lapsed to Govt."
[2] Subs. by the A. O. for "allotted by Govt."
[3] Subs. by the A. O. for "The L. G. may, subject to the control of the G. G. in C."

(*d*) fixing the limits of expenditure which may be incurred by a Committee without sanction, and providing for the grant of sanction for expenditure exceeding those limits;

(*e*) regulating the preparation, submission and approval of the budgets of Committees;

(*f*) prescribing the accounts to be kept by Committees, and providing for the audit and publication thereof;

(*g*) prescribing the returns, statements and reports to be submitted by Committees; and

(*h*) generally providing for the control of Committees in respect of financial matters.

23. (*1*) Rules made by the [1][Central Government] under this Act shall be made by notification in the [2][Official Gazette] and shall be subject to the condition of previous publication. **Provisions regarding rules and by-laws.**

(*2*) By-laws made by a Port Haj Committee shall be submitted to the [1][Central Government], and shall not take effect until they have been confirmed by the [1][Central Government]

(*3*) By-laws which have been confirmed by the [1][Central Government] shall be published in the [2][Official Gazette].

24. [*Repeals.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE TEA DISTRICTS EMIGRANT LABOUR ACT, 1932.

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ACT No. XXII OF 1932.[1]

[*8th October, 1932.*]

An Act to amend the law relating to emigrant labourers in the tea districts of Assam.

WHEREAS it is expedient to amend the law relating to emigrant labourers in the tea districts of Assam; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Tea Districts Emigrant Labour Act, 1932. Short title, extent and commencement.

(*2*) It extends[2] to the whole of British India, including the Sonthal Parganas.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 133; for Report of Select Committee, *see ibid.*, p. 179.

[2] This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

(Chapter I.—Preliminary.)

(3) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) " tea district " means any of the following districts in the Province of Assam, namely,—

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet, and the Balipara Frontier Tract;

(b) " tea estate " means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith;

(c) " recruiting Province " means any Province other than Assam;

(d) " adult " means a person who has completed his sixteenth year, and " child " means a person who is not an adult;

(e) a " labourer " means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan,

(f) an " assisted emigrant " means an adult who, after the commencement of this Act, has left his home in any recruiting Province or in any Indian State, is proceeding through any part of British India to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person,

but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate;

(g) " assistance " means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an indu[illegible] to such person to proceed to Assam to work as a labour[illegible] tea estate, and " assisted " and " with assistance " when [illegible] reference to any person mean that such person h[illegible] assistance;

(h) an " emigrant labourer " means a person who has la[illegible] Assam as an assisted emigrant [illegible] employed on a [illegible]

and includes any person who, [illegible] accompanied [illegible] emigrant to Assam as a child [illegible] on him, h[illegible] an adult and is so employed,

but does not include any per[illegible] at any t[illegible] last entry into Assam and after [illegible] become taken employment not on a tea [illegible]

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[1] 1st October, 1933: *see* Gazette of India, [illegible]

[2] Subs. by the A. O. for " G. G. in C."

[3] Subs. by the A. O. for " Gazette of India [illegible]

(*Chapter I.—Preliminary.*)

(*i*) the "family" of any person includes the following, if living with him, namely,—

(*i*) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,

(*ii*) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and

(*iii*) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,

and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him ;

(*j*) "employing interest" means any employer of labourers, or any group or association of such employers, and

(*k*) "prescribed" means prescribed by rules made by the [1][Central Government].

Appointment and status of Controller and Deputy Controllers.

3. (*1*) The [1][Central Government] may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(*2*) The [1][Central Government] may also appoint one or more Deputy Controllers of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the [1][Central Government] may determine.

(*3*) The Controller may, from time to time and subject to the control of the [1][Central Government], make a distribution of work as between himself and the Deputy Controllers.

(*4*) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Powers of the Controller.

4. The Controller shall have power—

(*a*) to enter

(*i*) all open places on a tea estate,

(*ii*) any enclosed place on a tea estate where he knows or has reason to believe emigrant labourers are working or are accommodated,

(*iii*) any office of a tea estate,

(*iv*) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting Province,

(*v*) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants ;

[1] Subs. by the A. O. for "G. G. in C."

(Chapter I.—Preliminary.)

(3) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "tea district" means any of the following districts in the Province of Assam, namely,—

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet, and the Balipara Frontier Tract;

(b) "tea estate" means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith;

(c) "recruiting Province" means any Province other than Assam;

(d) "adult" means a person who has completed his sixteenth year, and "child" means a person who is not an adult;

(e) a "labourer" means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan;

(f) an "assisted emigrant" means an adult who, after the commencement of this Act, has left his home in any recruiting Province or in any Indian State, is proceeding through any part of British India to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person,

but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate;

(g) "assistance" means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam to work as a labourer on a tea estate, and "assisted" and "with assistance" when used with reference to any person mean that such person has received assistance;

(h) an "emigrant labourer" means a person who has last entered Assam as an assisted emigrant and is employed on a tea estate,

and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has become an adult and is so employed,

but does not include any person who, at any time after his last entry into Assam and after he has become an adult has taken employment not on a tea estate;

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[1] 1st October, 1933, *see* Gazette of India, 1933, Pt. I, p. 103
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "Gazette of India".

(Chapter I.—Preliminary.)

(*i*) the "family" of any person includes the following, if living with him, namely,—

(*i*) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,

(*ii*) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and

(*iii*) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,

and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him;

(*j*) "employing interest" means any employer of labourers, or any group or association of such employers; and

(*k*) "prescribed" means prescribed by rules made by the [1][Central Government].

Appointment and status of Controller and Deputy Controllers.

3. (*1*) The [1][Central Government] may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(*2*) The [1][Central Government] may also appoint one or more Deputy Controllers of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the [1][Central Government] may determine.

(*3*) The Controller may, from time to time and subject to the control of the [1][Central Government], make a distribution of work as between himself and the Deputy Controllers.

(*4*) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Powers of the Controller.

4. The Controller shall have power—

(*a*) to enter

(*i*) all open places on a tea estate,

(*ii*) any enclosed place on a tea estate where he knows or has reason to believe emigrant labourers are working or are accommodated,

(*iii*) any office of a tea estate,

(*iv*) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting Province,

(*v*) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants;

[1] Subs by the A. O. for "G. G. in C."

(Chapter I.—Preliminary.)

(3) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "tea district" means any of the following districts in the Province of Assam, namely,—

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet, and the Balipara Frontier Tract;

(b) "tea estate" means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith;

(c) "recruiting Province" means any Province other than Assam;

(d) "adult" means a person who has completed his sixteenth year, and "child" means a person who is not an adult;

(e) a "labourer" means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan;

(f) an "assisted emigrant" means an adult who, after the commencement of this Act, has left his home in any recruiting Province or in any Indian State, is proceeding through any part of British India to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person,

but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate;

(g) "assistance" means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam to work as a labourer on a tea estate, and "assisted" and "with assistance" when used with reference to any person mean that such person has received assistance;

(h) an "emigrant labourer" means a person who has last entered Assam as an assisted emigrant and is employed on a tea estate,

and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has become an adult and is so employed,

but does not include any person who, at any time after his last entry into Assam and after he has become an adult has taken employment not on a tea estate;

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[1] 1st October, 1933: *see* Gazette of India, 1933, Pt. I, p. 903.
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "Gazette of India".

(*Chapter I.—Preliminary.*)

(*i*) the "family" of any person includes the following, if living with him, namely,—

(*i*) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,

(*ii*) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and

(*iii*) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,

and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him;

(*j*) "employing interest" means any employer of labourers, or any group or association of such employers; and

(*k*) "prescribed" means prescribed by rules made by the [1][Central Government].

Appointment and status of Controller and Deputy Controllers.

3. (*1*) The [1][Central Government] may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(*2*) The [1][Central Government] may also appoint one or more Deputy Controllers of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the [1][Central Government] may determine.

(*3*) The Controller may, from time to time and subject to the control of the [1][Central Government], make a distribution of work as between himself and the Deputy Controllers.

(*4*) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

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4. The Controller shall have power—

(*a*) to enter

(*i*) all open places on a tea estate,

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(*iii*) any office of a tea estate,

(*iv*) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting Province,

(*v*) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants;

[1] Subs. by the A. O. for "G. G. in C."

(Chapter I.—Preliminary.)

(*b*) to inspect, in any office or depot mentioned in sub-clauses (*iii*) and (*iv*) of clause (*a*), any register or other document required to be kept under this Act;

(*c*) to carry out in any place mentioned in clause (*a*) any inquiry which he may deem to be expedient for carrying out the purposes of this Act; and

(*d*) to do any other reasonable act which may be expedient in the discharge of his duties.

Emigrant Labour Cess.

5. (*1*) In order to meet expenditure incurred in connection with the Controller, the Deputy Controllers and their staff, or under this Act, an annual cess shall be levied, to be called the Emigrant Labour Cess.

(*2*) It shall be paid in respect of the entry into Assam of each assisted emigrant and shall be payable by the employing interest on whose behalf he was recruited.

(*3*) It shall be levied at such rate, not exceeding nine rupees, for each such emigrant as the [1][Central Government] may, by notification in the [2][Official Gazette], determine for the year of levy.

(*4*) The proceeds of the cess shall be credited to a fund to be called the Emigrant Labour Fund, to be administered by the [1][Central Government].

Power to make rules for the collection of the Emigrant Labour Cess.

6. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[3]—

(*a*) prescribing the agency which shall collect the Emigrant Labour Cess;

(*b*) prescribing the returns to be submitted to such agency by employers of emigrant labourers, and by persons who recruit or forward emigrant labourers, and the form and date of such returns;

(*c*) regulating the procedure of the collecting agency;

(*d*) prescribing the mode of payment of the cess;

(*e*) determining the date when any sum payable as cess shall be an arrear;

(*f*) declaring that an arrear of cess may be recovered as an arrear of land-revenue and prescribing the procedure to be followed to secure such recovery; and

(*g*) generally, to secure the equitable collection of the cess.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".
[3] *See* the Tea Districts Emigrant Labour Rules, 1933, Ch. III, published in the Gazette of India, 1933, Pt. I, p. 777 *et seq.*, and also, as subsequently amended, in the Tea Districts Emigrant Labour Manual.

CHAPTER II.

REPATRIATION.

7. Every emigrant labourer, on the expiry of three years from the date of his entry into Assam, shall have the right of repatriation as against the employer employing him at such expiry. General right of repatriation after three years in Assam.

8. (*1*) Any emigrant labourer who, before the expiry of three years from his entry into Assam, is dismissed by his employer, otherwise than for wilful and serious misconduct, shall have the right of repatriation against such employer. Right to repatriation on dismissal.

(*2*) Where any emigrant labourer is dismissed by his employer before the expiry of three years from his entry into Assam, and his employer refuses or fails to repatriate him, the labourer may apply to the Controller, and the Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that the labourer has the right of repatriation against such employer.

9. (*1*) Where an emigrant labourer other than a married woman living with her husband and having no child living with her dies within three years of his entry into Assam, the family of such labourer shall be entitled to be repatriated by the employer last employing him Rights of repatriation of family of deceased emigrant labourer.

(*2*) Where such deceased labourer leaves a widow, she shall be deemed to be an emigrant labourer in whom a right of repatriation has arisen.

(*3*) Where there is no such widow, the Controller shall have all powers necessary to enforce the rights of the family under this section, and may take such action as he may deem to be expedient in their interests.

10. (*1*) An emigrant labourer may, before the expiry of three years from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,— Right to apply for repatriation in certain circumstances

(*a*) that his state of health makes it imperative that he should leave Assam, or

(*b*) that his employer has failed to provide him with work suited to his capacity, at the normal rate of wages for that class of work, or

(*c*) that his employer has unjustly withheld any portion of any wages due to him, or

(*d*) any other sufficient cause

(*2*) An emigrant labourer may, before the expiry of one year from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,—

(*a*) that he was recruited by coercion, undue influence, fraud or misrepresentation, or

(*b*) that he was recruited otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(Chapter II.—Repatriation.)

(3) The Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that an emigrant labourer applying under this section has a right of repatriation against his employer:

Provided that a declaration in pursuance of clause (*d*) of sub-section (*1*) may be made by the Controller only and not by any other officer exercising the powers of the Controller by or under this Act.

Power of criminal Courts to order repatriation.

11. Where any employer of an emigrant labourer, or any agent of such employer in authority over such labourer, is convicted of any offence committed against such labourer and punishable under Chapter XVI of the Indian Penal Code with imprisonment for one year or upwards, the convicting Court or the appellate Court or the High Court when exercising its powers of revision may declare that such labourer has a right of repatriation against such employer.

XLV of 1860.

Incidents of the right of repatriation.

12. (*1*) When an emigrant labourer has a right of repatriation against any employer, the employer or his agent shall defray the cost of the return journey of the emigrant labourer and his family from the station nearest the employer's tea estate to the home of the labourer and shall provide subsistence allowances on the prescribed scale for such labourer and his family for the time requisite for him and his family to travel from such estate to his home:

Provided that where the emigrant labourer is a married woman living with her husband who is also an emigrant labourer, her right of repatriation arising under section 7 shall extend only to herself and any children dependent on her:

Provided further that a married woman living with her husband is entitled to be treated as a member of his family notwithstanding that she is herself an emigrant labourer.

(2) In the event of any dispute regarding the cost of the return journey or subsistence allowances, the question shall be referred for decision to the Controller.

The discharge of an employer's duty to repatriate.

13. (*1*) Within fifteen days from the date on which a right of repatriation arises to an emigrant labourer, or within such shorter period as the authority declaring such right may determine, the employer concerned shall, subject to any agreement under section 14, make all necessary arrangements for the homeward journey of the labourer and his family, and shall despatch them on their journey:

Provided that an employer shall not be required to make such arrangements for or any payment in respect of any adult person who does not wish to leave Assam.

(2) Where an employer fails to comply with the provisions of sub-section (*1*), the right of repatriation of the emigrant labourer concerned shall not be affected, but the employer shall be liable to pay to the labourer one rupee for each day on which he is in default;

(*Chapter II.—Repatriation.*)

Provided that on application made to him by either party the Controller may direct that the labourer shall be paid at a lower rate than one rupee a day or at a higher rate not exceeding two rupees a day, and may also determine the number of days, being a reasonable number regard being had to all the circumstances of the case, for which the payment shall be made.

Postponement, waiver and forfeiture of the right.

14. (*1*) An emigrant labourer may, by agreement with his employer, postpone his exercise of the right of repatriation, or may waive it conditionally or unconditionally, but no such agreement shall be valid unless it is in writing and in the prescribed form and has been made not more than one month before the right of repatriation arises:

Provided that the [1][Central Government] may, by notification in the [2][Official Gazette], make rules requiring that in any area such agreement shall be made in the prescribed manner before a prescribed authority and that the prescribed authority, if satisfied that the labourer understands the terms of his agreement, and his rights in regard to repatriation, shall ratify the agreement:

Provided further that after such rules come into force no such agreement shall be valid unless it is so made and ratified

(*2*) Where an emigrant labourer having a right to repatriation fails without reasonable cause to proceed on his homeward journey at the time arranged by his employer, the employer may notify the Controller of such failure, and the Controller, after such inquiry as he may think fit and after giving the labourer an opportunity to be heard, may declare that the labourer has forfeited his right of repatriation, and such labourer shall not be entitled to repatriation again as against any employer, save by an order of the Court under section 11.

Power of the Controller to enforce the provisions of this Chapter.

15. (*1*) Where the Controller, on information obtained from any source and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under any of the provisions of this Chapter, or is entitled to the payment of any sum of money under the provisions of sub-section (*2*) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family or to pay him the sum of money within such period as the Controller may fix.

(*2*) If the employer fails to comply with such direction, the Controller may repatriate the labourer and his family or pay him the sum of money out of any funds at the Controller's disposal, and shall recover the costs incurred from the employer.

(*3*) For the purposes of such recovery the Controller may certify the costs to be recovered to the Collector, who shall recover the amount and may recover it as an arrear of land-revenue.

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[1] Subs by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".

(4) The Controller shall have similar powers in regard to any person in Assam who he knows or has reason to believe is a member of the family of a repatriated emigrant labourer who should have been repatriated along with such labourer.

CHAPTER III.

CONTROLLED EMIGRATION AREAS.

Power to declare controlled emigration areas

16. [1][(1) The Central Government may, by notification in the Official Gazette, declare any area within a recruiting Province to be a controlled emigration area and thereupon the provisions of this Chapter shall apply to that area :

Provided that the Central Government may by the same or any subsequent notification declare that any of the provisions of this Chapter shall not apply in that area, or shall apply subject to such general or special relaxations as may be specified.]

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 17 and such licences shall be dated as being granted on the date on which the notification takes effect and shall not be valid until that date.

Power to grant licences to local forwarding agents

17. (1) The [2][Central Government], or any District Magistrate empowered by it in this behalf, may grant a licence to any person to act as local forwarding agent in any part of a controlled emigration area, on behalf of an employer or employers of labourers.

(2) Such licences shall be granted only on the application of an employing interest.

(3) No such application shall be entertained unless the Controller has certified that the employing interest making the application has made proper provision, in accordance with section 20 and rules made under section 21, for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed.

(4) A local forwarding agent may be granted separate licences on applications by separate employing interests.

Recruits in controlled emigration areas to be sent to forwarding agents' depots.

18. (1) Whoever arranges with any person in a controlled emigration area that such person shall proceed to Assam with assistance, shall take or send such person, along with the members of his family who are to accompany him to Assam, to the depot of a local forwarding agent licensed for the area in which the arrangement was made, unless the arrangement was made at such a depot.

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[1] Subs. by the A. O. for the original sub-section.
[2] Subs. by the A. O. for "L. G."

(Chapter III.—Controlled Emigration Areas.)

(2) Whoever arranges with any person in an Indian State that such person shall proceed to Assam with assistance and brings or sends such person and any of the members of his family into any controlled emigration area, shall take or send such person and members to the depot of a local forwarding agent licensed for that area.

(3) At every such depot proper arrangements shall be made for the accommodation and feeding of assisted emigrants and their families.

Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes.

19. An assisted emigrant and his family shall be forwarded to Assam from the depot of a local forwarding agent by such agent and only by such routes and in such manner as may be prescribed by rules made under section 37, and shall be accompanied on their journey by a competent person deputed by the local forwarding agent.

Maintenance of depots along prescribed routes.

20. Every employing interest which recruits labour in a controlled emigration area shall maintain or have the right to use depots at reasonable intervals on the prescribed routes by which it forwards assisted emigrants to Assam, for the accommodation and feeding of assisted emigrants and their families.

Power of Central Government to make rules.

21. (1) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[3]—

(a) prescribing the form and particulars of licences to be granted to local forwarding agents, and the annual fees, not exceeding ten rupees, which may be levied from persons holding such licences ;

(b) prescribing returns relating to assisted emigrants and their families which shall be made by local forwarding agents and the registers and the form thereof which shall be maintained by such agents ;

(c) prescribing the scales of diet which shall be provided for assisted emigrants and their families at depots ;

(d) prescribing the accommodation which shall be provided for assisted emigrants and their families at depots, and the sanitary and medical arrangements at such depots ;

(e) providing for the detention, for a period not exceeding three days, at depots of local forwarding agents of women unaccompanied by their husbands who propose to proceed to Assam as assisted emigrants, and for investigation into their circumstances ;

(f) prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates, and the methods in which it shall be supplied ;

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[1] [illegible]

[2] [illegible]

[3] [illegible]

Apri [illegible]

(Chapter III.—Controlled Emigration Areas.)

(*g*) providing for any other matter which in the opinion of the [1][Central Government] may be required to give effect to the provisions of this Chapter.

(*2*) In making rules under clause (*b*), clause (*e*), clause (*f*) or clause (*g*) of sub-section (*1*), the [1][Central Government] may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

Inspection of depots, vessels and vehicles.

22. (*1*) The Civil Surgeon, the District Magistrate or the Sub-Divisional Magistrate, or any Magistrate or police officer not below the rank of Inspector, deputed by the District Magistrate or the Sub-Divisional Magistrate, may enter a local forwarding agent's depot, or any depot maintained by an employing interest on a prescribed route to Assam, and inspect the accommodation, feeding arrangements, and sanitary arrangements provided for assisted emigrants and their families and all registers and other documents required to be maintained or kept by or under this Act and shall record the results of such inspection in a book to be kept in such depot for the purpose.

(*2*) The Civil Surgeon or such Magistrate or person deputed may also enter and inspect any vessel, train or vehicle on which assisted emigrants are travelling, or on which he has reason to believe that any assisted emigrant is travelling, whether along a prescribed route or not.

Action where proper arrangements not made for assisted emigrants.

23. If the [2][Central Government] is satisfied that an employing interest recruiting assisted emigrants in a controlled area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to Assam, [3][the Central Government may] direct all District Magistrates concerned to cancel or suspend all licences under section 17 held by local forwarding agents on behalf of such employing interest:

Provided that the [2][Central Government] shall not [4][direct the cancellation of any] licences under this section until [5][it] has given the employing interest concerned an opportunity to submit its explanation.

Cancellation of licences.

24. (*1*) The [1][Central Government] may cancel wholly or in part any licence granted to a local forwarding agent, and a District Magistrate may cancel wholly or in part any licence granted by him to a local forwarding agent,—

(*a*) if, in the opinion of the [1][Central Government] or of the District Magistrate, as the case may be, such agent has been guilty of misconduct or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act, or

[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "he may require the L. G. to".
[4] Subs. by the A. O. for "make any requisition for the cancellation of".
[5] Subs. by the A. O. for "he".

(*b*) if the employing interest, on whose application the licence was granted, has applied to the [1][Central Government] or to the District Magistrate, as the case may be, for the cancellation of the licence, or

(*c*) if in the opinion of the [1][Central Government] or of the District Magistrate, as the case may be, an employer on whose behalf the agent is licensed to act has been guilty of misconduct, or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act:

Provided that no licence shall be cancelled under clause (*a*) until the holder thereof has or under clause (*c*) until the holder thereof and the employer concerned have had an opportunity to show cause against the cancellation:

Provided further that a cancellation under clause (*c*) shall, where the agent is licensed to act on behalf of more than one employer, operate only to prevent the agent from acting on behalf of the employer held guilty.

(*2*) A local forwarding agent whose licence has been cancelled by a District Magistrate under clause (*a*) of sub-section (*1*), or any employing interest on whose behalf he acts, may, within three months from the date of the District Magistrate's order, appeal to the [1][Central Government], whose decision shall be final.

Penalty for illicit abetment of emigration.

25. Where any person who is required to be taken or sent to a local forwarding agent's depot in any district under section 18 leaves that district on his journey to Assam without being so taken or sent, or, being an assisted emigrant, proceeds to Assam otherwise than in accordance with section 19, or by any route other than a route prescribed under section 37, any person who abets him in so leaving the district or in so proceeding to Assam, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER IV.

RESTRICTED RECRUITING AREAS.

Power to declare restricted recruiting areas.

26. [2][(*1*) The Central Government may, by notification in the Official Gazette, declare any controlled emigration area or any part of a controlled emigration area within a recruiting Province to be a restricted recruiting area and thereupon the provisions of this Chapter shall apply to that area:

Provided that the Central Government may, by the same or any subsequent notification, declare that any of the provisions of this Chapter shall not apply in relation to that area, or shall apply subject to such general or special relaxations as may be specified.]

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O for the original sub-section.

(Chapter IV.—Restricted Recruiting Areas.)

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 27 or certificates may be granted and endorsements made under section 28, and such licences, certificates and endorsements shall be dated as being granted or made on the date on which the notification takes effect and shall not be valid until that date.

Grant of licences to recruiters.

27. (1) Subject to rules made under sub-section (2) and sub-section (3), the District Magistrate may grant a licence to any person to act as recruiter in the whole or any part of his district.

(2) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules prescribing the qualifications for persons who may be granted licences under this section.

(3) [3][The Central Government] may, by notification in the [4][Official Gazette], make rules [5][as respects any restricted recruiting area]—

(a) regulating the procedure of the District Magistrate in granting such licences,

(b) prescribing the form and particulars of such licences, and the fees, not exceeding ten rupees, to be paid therefor.

Grant of certificates to garden-sardars.

28. (1) Subject to rules made under sub-section (2), the owner or manager of a tea estate may grant a certificate to any person employed on such estate as a labourer or in a position of supervision or management empowering him to recruit labour for such estate in the whole or any part of a restricted recruiting area, and such person shall thereupon be entitled to recruit labour for such estate as a garden-sardar in the area specified:

Provided that [3][the Central Government] may, by notification in the [4][Official Gazette], make rules [5][as respects any restricted recruiting area] directing that certificates of garden-sardars or of specified classes of garden-sardars shall not be valid in any district in any such area until they have been endorsed as valid for that district by the District Magistrate or a Magistrate authorised by the District Magistrate in this behalf

(2) The [6][Central Government] may make rules [5][for Assam]—

(a) regulating the procedure of owners and managers in granting and withdrawing such certificates,

(b) prescribing the form and particulars of such certificates.

Cancellation and suspension of recruiter's licence.

29. The District Magistrate may, for reasons to be recorded by him, cancel or suspend the licence of a recruiter on the ground of his misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under this Act:

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[1] Subs. by the A. O. for " G. G. in C ".
[2] Subs. by the A. O. for " Gazette of India ".
[3] Subs. by the A. O. for " the L. G having jurisdiction over any restricted recruiting area ".
[4] Subs. by the A. O. for " local official Gazette ".
[5] Ins by the A. O
[6] Subs. by the A. O for " L. G. of Assam ".

Provided that no licence shall be cancelled under this section until the holder thereof has had an opportunity of showing cause against the cancellation.

30. (*1*) The District Magistrate of any district in respect of any part of which a garden-sardar holds a certificate may cancel the certificate if he is satisfied that the garden-sardar has contravened any of the provisions of this Act or of the rules made thereunder Cancellation of garden-sardar's certificate.

(*2*) A District Magistrate cancelling a certificate under sub-section (*1*) shall record his reasons, and shall send intimation of his action to the District Magistrate of every other district in respect of any part of which the certificate was valid and to the person who granted the certificate.

31. Whoever, not being a licensed recruiter holding a licence under section 27, or a garden-sardar holding a valid certificate under section 28, or a local forwarding agent holding a licence under section 17, in any part of a restricted recruiting area gives or offers any money or goods to any person, or defrays or offers to defray any travelling expenses of any person, as an inducement to such person to proceed to Assam as an assisted emigrant, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both. Penalty for illicit recruitment.

CHAPTER V.

SUPPLEMENTAL.

32. (*1*) No person shall in any way assist a child to proceed from any recruiting Province to Assam, to work in any capacity on a tea estate, unless such child is accompanied by a parent or other adult relative on whom he is dependent, and no person shall so assist a married woman who is living with her husband unless she is so proceeding with the consent of her husband. Prohibition of the recruitment of children.

(*2*) Any person who knowingly contravenes the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

33. (*1*) Where it appears to the Controller that any person proceeding to a tea garden with assistance, or any member of the family of such person, is suffering from an infectious or contagious disease, or is not in a fit state of health to proceed on his journey, the Controller may— Power to detain and return sick persons.

(*a*) detain such person and his family,
(*b*) send the sufferer for medical treatment to a hospital or dispensary or other suitable place, and
(c) cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained,

(*Chapter V.—Supplemental.*)

and all arrangements for such detention and treatment shall be made by and at the cost of the employing interest on whose behalf such person was recruited.

(*2*) Where it appears that a sufferer detained under sub-section (*1*) is not likely to be in a fit state of health to proceed on his journey within a reasonable time, the Controller may direct that he and the other members of his party detained with him shall be returned to the home of the person proceeding with assistance by and at the cost of the employing interest on whose behalf such person was recruited.

Power to return person improperly recruited.

34. Where it appears to the Controller after such inquiry as he thinks fit to make that any person proceeding to a tea estate with assistance—

(*a*) has been recruited by coercion, undue influence, fraud or misrepresentations, or

(*b*) has been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder,

the Controller may direct that such person and his family shall if such person so desires be returned to his home by and at the cost of the employing interest on whose behalf he was recruited.

Power to enforce the provisions of sections 33 and 34.

35. (*1*) If an employing interest fails to make arrangements to the satisfaction of the Controller for the detention or treatment of any person detained under sub-section (*1*) of section 33, the Controller may himself make such arrangements and defray the cost out of any funds at his disposal.

(*2*) In making a direction under sub-section (*2*) of section 33 or under section 34 the Controller may fix a period within which such person and family shall be forwarded by the employing interest concerned, and shall send a copy of his direction to the employing interest concerned, and to the nearest agent, if any, of such employing interest in the Province where such person then is.

(*3*) If the employing interest fails to comply with the direction within the time fixed, the Controller may cause such person and his family to be returned to his home and defray the cost out of any funds at the Controller's disposal.

(*4*) The Controller shall recover any costs incurred by him under this section from the employing interest concerned, and for the purposes of such recovery may certify the costs to be recovered to the Collector of any district in which a tea estate belonging to the employing interest concerned, or to any member thereof, is situated, and the Collector shall recover the amount and may recover it as an arrear of land-revenue.

(*5*) Any costs so certified may, where the employing interest concerned is a group or association of employers, be recovered from any one of such employers.

Magistrates and medical officers who may exercise

36. (*1*) Subject to the provisions of sub-section (*3*) of section 10, any District Magistrate in Assam may exercise in respect of his district any power which the Controller by or under this Act could exercise in such district.

(*Chapter V.—Supplemental.*)

(2) The Controller may transfer any proceeding under Chapter II pending before him to the District Magistrate having jurisdiction under sub-section (1) to dispose of it. the powers of the Controller.

(3) [1][The Central Government may invest a District Magistrate or a Sub-Divisional Magistrate in any recruiting Province and a Sub-Divisional Magistrate in Assam] with any of the powers of the Controller under section 4 or section 33 or section 34 or section 35 in respect of his district or sub-division, as the case may be.

(4) The [2][Central Government] may invest any medical officer not below the rank of Assistant Surgeon with any of the powers of the Controller under section 33 and section 35.

37. (1) The [3][Central Government] may, by notification in the [4][Official Gazette], make rules[5]— Power of Central Government to make rules.

(a) regulating the procedure of the Controller and of persons exercising the powers of the Controller in the exercise of their powers under this Act;

(b) where there are more authorities than one exercising any of the powers of the Controller in the same area, regulating the exercise of their powers by such authorities,

(c) prescribing scales of subsistence allowances for the purposes of section 12;

(d) prescribing the form of agreements under section 14,

(e) prescribing the routes by which assisted emigrants may be forwarded from districts in controlled emigration areas to tea districts,

(f) prescribing the manner in which assisted emigrants and their families shall be forwarded to Assam from the depots of local forwarding agents,

(g) prescribing the action to be taken by local forwarding agents and by persons in charge of depots on prescribed routes where an assisted emigrant or a member of his family appears to be suffering from infectious or contagious disease or where an assisted emigrant appears to have been recruited by coercion, undue influence, fraud or misrepresentation, or to have been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder;

(h) directing that employers of emigrant labourers shall keep registers of such labourers and their families, and prescribing the form of such registers;

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[1] Subs. by the A. O for "The L. G. of a recruiting province may invest a District Magistrate or a Sub-Divisional Magistrate and the L. G of Assam may invest a Sub-Divisional Magistrate."

[2] Subs. by the A O for "L G"

[3] Subs. by the A. O for "G G. in C."

[4] Subs by the A. O. for "Gazette of India".

[5] *See* the Tea Districts Emigrant Labour Rules, 1933, published in the Gazette of India, 1933, Pt. I, p 777 *et seq*, as subsequently amended.

(*Chapter V.—Supplemental.*)

(i) directing that employing interests which recruit emigrant labourers shall keep registers of such labourers and their families, and of their journeys to and from Assam, and prescribing the form of such registers;

(j) requiring employers of emigrant labourers and employing interests which recruit emigrant labourers to submit such return in respect of such labourers as the [1][Central Government] may think expedient for carrying out the purposes of this Act; and

(k) generally, to carry out the purposes of this Act.

(2) The [2][Central Government] may, by notification in the [3][Official Gazette], make rules [4][for Assam] requiring employers of labourers on tea estates to submit returns of wages and earnings of labourers employed by them.

(3) [5][Rules made under this section] may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

Powers to extend the scope of this Act.

38. (*1*) The [1][Central Government] may, by notification in the [6][Official Gazette], declare that the provisions of this Act shall apply in respect of any lands and premises in Assam other than tea estates, and thereupon the provisions of this Act shall apply in all respects to such lands and premises as if they were tea estates.

(*2*) [7][The Central Government] may, by notification in the [3][Official Gazette], declare that the provisions of this Act shall apply in any area in Assam other than the districts specified in clause (*a*) of section 2, and thereupon the provisions of this Act shall apply in all respects to such area as if it were a tea district.

Saving for acts done in good faith under the Act.

39. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Bar of jurisdiction of Civil Courts.

40. No Civil Court shall have jurisdiction—

(*a*) to deal with or decide any question which the Controller is, by or under this Act, empowered to deal with or to decide, or

(*b*) to enforce any liability incurred under this Act.

41. [*Repeal of Act VI of 1901 and certain consequences.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

THE SCHEDULE.—Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "L. G. of Assam".
[3] Subs. by the A. O. for "local official Gazette".
[4] Ins. by the A. O.
[5] Subs by the A. O. for "In making rules under sub-section (*1*), the G. G. in C., and in making rules under sub-section (2) the L. G".
[6] Subs by the A. O. for "Gazette of India".
[7] Subs. by the A. O. for "Subject to the control of the G. G in C. the L. G. of Assam".

THE CRIMINAL LAW AMENDMENT ACT, 1932.

ACT No. XXIII OF 1932.[1]

[*19th December, 1932.*]

An Act to Supplement the Criminal Law.

XXIII of 1931. XIV of 1908.

WHEREAS it is expedient to supplement the Criminal Law and to that end to amend the Indian Press (Emergency Powers) Act, 1931, and further to amend [2]* the Indian Criminal Law Amendment Act, 1908, for the purposes hereinafter appearing:

It is hereby enacted as follows —

Short title, extent, duration and commencement.

1. (*1*) This Act may be called the Criminal Law Amendment Act, 1932.

(*2*) It extends[3] to the whole of British India, including British Baluchistan and the Sonthal Parganas

[4] * * * * * * *

(*4*) The whole of the Act except [5]* * * section 7 shall come into force at once, and the [6][Provincial Government] may, by notification[7] in the [8][Official Gazette] direct that [9]* * * section 7 shall come into force in any area on such date as may be specified in the notification.

2 to 4. [*Dissuasion from enlistment. Tampering with public servants Boycotting a public servant.*] *Rep by the Criminal Law Amendment Act, 1935, s. 2.*

Dissemination of contents of proscribed document.

5. (*1*) Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt V, p 206, for Report of Select Committee, *see ibid.*, 1932, Pt V, p 225

[2] The word "temporarily" rep by the Criminal Law Amendment Act, 1935, s 3

[7] S. 7 was brought into force in—

Bihar and Orissa from 26th December, 1932 : *see* B & O. Gazette, Extraordinary, dated 26th December, 1932,

The Delhi Province from 24th December, 1932 *see* Gazette of India, Extraordinary, 1932, p 429,

The City of Bombay, the Bombay Suburban district and the districts of Karachi, Kaira, Ahmednagar, East Khandesh, West Khandesh, Ratnagiri and Kanara from 29th December, 1932. *see* Bombay Gazette, Extraordinary, dated 27th December, 1932:

Lahore and Amritsar districts from 31st December, 1932. *see* Punjab Gazette, Extraordinary, 1932, p 163;

The Districts of Sylhet, Cachar, Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur from 7th January, 1933: *see* Assam Gazette, Extraordinary, dated 7th January, 1933;

Ajmer-Merwara from 30th September, 1933: *see* Gazette of India, 1933, Pt. II A, p. 716.

[8] Subs. by the A. O. for "local official Gazette".

[9] The words and figure "section 4 or" rep. by the Criminal Law Amendment Act, 1935, s. 4.

to be forfeited to His Majesty under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the [1][Provincial Government] has certified that the passage published, circulated or repeated contains, in the opinion of the [1][Provincial Government], seditious or other matter of the nature referred to in sub-section (1) of section 99A of the Code of Criminal Procedure, 1898, or sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931. V of 1898. XXIII of 1931.

6. [*Dissemination of false rumours.*] *Rep. by the Criminal Law Amendment Act, 1935, s. 2.*

Molesting a person to prejudice of employment or business

7. (1) Whoever—

(a) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(b) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section.

(2) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of officer in charge of a police station.

8. [*Power to order parent or guardian to pay fine imposed on young person.*] *Rep. by the Criminal Law Amendment Act, 1935, s. 2.*

Procedure in offences under the Act.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,— V of 1898.

(i) no Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act;

(ii) an offence punishable under sections [2]* * 5 [2]* or 7 shall be cognizable by the police;

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[1] Subs. by the A. O. for "L. G."

[2] The figures "2," "3" and "6" rep. by the Criminal Law Amendment Act, 1935, s. 5.

[1] * * * * * * *

and (iv) an offence punishable under section 7 shall be non-bailable.

Power of Provincial Government to make certain offences cognizable and non-bailable

10. (*1*) The [2][Provincial Government] may, by notification[3] in the [4][Official Gazette], declare that any offence punishable under sections 186, 188, 189, 190, 228, 295A, 298, 505, 506 or 507 of the Indian Penal Code, when committed in any area specified in the notification shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cognizable, and thereupon the Code of Criminal Procedure, 1898, shall, while such notification remains in force, be deemed to be amended accordingly.

XLV of 1860. V of 1898. V of 1898.

(2) The [2][Provincial Government] may, in like manner and subject to the like conditions, and with the like effect, declare[3] that an offence punishable under section 188 or section 506 of the Indian Penal Code shall be non-bailable.

XLV of 1860.

11 to 14. [*Amendment of s. 16, Act XIV of 1908, Amendment of s. 17, Act XIV of 1908, Insertion of new ss 17A to 17F in Act XIV of 1908, Amendment of title and preamble of Act XXIII of 1931.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

15. [*Amendment of s. 1, Act XXIII of 1931.*] *Rep by the Criminal Law Amendment Act, 1935, s. 2.*

16. [*Amendment of s. 4, Act XXIII of 1931*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch*

17. [*Cessation of effect of s. 62, Ordinance X of 1932.*] *Rep. by the Criminal Law Amendment Act, 1935, s. 2.*

Adoption and continuance of action taken under Ordinance X of 1932

18. Anything done or any proceedings commenced in pursuance of the provisions of Chapter VI of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Criminal Law Amendment Act, 1908, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced

X of 1932. XLV of 1908.

Adoption and continuance of action taken under Act XXIII of 1931 as amended by Ordinance X of 1932.

19. Anything done or any proceedings commenced in pursuance of the provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by section 77 of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

XXIII of 1931. X of 1932 XXIII of 1931.

20. [*Trial of, and completion of trials of, offences against Ordinance X of 1932.*] *Rep. by the Criminal Law Amendment Act, 1935, s. 2.*

[illegible]

BENGAL SUPPRESSION OF TERRORIST OUTRAGES (SUPPLEMENTARY) ACT, 1932.

ACT No. XXIV OF 1932.[1]

[*23rd December, 1932.*]

An Act to supplement the Bengal Suppression of Terrorist Outrages Act, 1932.

WHEREAS it is expedient to supplement the Bengal Suppression of Terrorist Outrages Act, 1932; It is hereby enacted as follows:— Ben. Act XII of 1932.

Short title.

1. This Act may be called the Bengal Suppression of Terrorist Outrages (Supplementary) Act, 1932.

Definitions.

2. In this Act,—

(*a*) "Code" means the Code of Criminal Procedure, 1898; and V of 1898.

(*b*) "local Act" means the Bengal Suppression of Terrorist Outrages Act, 1932. Ben. Act XII of 1932.

Appeals

3. (*1*) An appeal shall lie to the High Court of Judicature at Fort William in Bengal, from—

(*a*) any sentence passed by a Special Magistrate in any trial held under the local Act in the Presidency town of Calcutta,

(*b*) any sentence of transportation for a term exceeding two years, or of imprisonment for a term exceeding four years passed by a Special Magistrate in any trial under the local Act held outside the Presidency-town of Calcutta.

(*2*) An appeal under sub-section (*1*) shall be presented within thirty days from the date of the sentence, and shall be disposed of by the High Court in the manner provided in Chapter XXXI of the Code for the hearing of appeals.

Effect of section 19 of local Act.

4. Section 19 of the local Act shall have effect as if it had been enacted by the Indian Legislature.

Exclusion of interference of Courts with proceedings under local Act.

5. Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law, there shall, save as provided in the local Act as supplemented by this Act, be no appeal from any order or sentence passed by a Special Magistrate under the local Act and save as aforesaid no Court shall have authority to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Magistrate, or of any direction made under Chapter II of the local Act:

[2] * * * * *

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 208.
[2] Proviso to s. 5 rep. by the A. O

THE CHILDREN (PLEDGING OF LABOUR) ACT, 1933.

ACT NO. II OF 1933.[1]

[24th February, 1933.]

An Act to prohibit the pledging of the labour of children.

WHEREAS it is expedient to prohibit the making of agreements to pledge the labour of children, and the employment of children whose labour has been pledged; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Children (Pledging of Labour) Act, 1933.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) This section and sections 2 and 3 shall come into force at once, and the remaining sections of this Act shall come into force on the first day of July, 1933.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

"an agreement to pledge the labour of a child" means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment:

Provided that an agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition,

"child" means a person who is under the age of fifteen years; and

"guardian" includes any person having legal custody of or control over a child

Agreements contrary to the Act to be void.

3. An agreement to pledge the labour of a child shall be void.

Penalty for parent or guardian making agreement to pledge the labour of a child.

4. Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend to fifty rupees

Penalty for making with a parent or guardian an agreement to pledge the labour of a child.

5. Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine which may extend to two hundred rupees.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt. V, p. 195.

Penalty for employing a child whose labour has been pledged.

6. Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.

THE INDIAN FINANCE ACT, 1933.

ACT NO. VII OF 1933.[1]

[31st March, 1933.]

An Act [2]* * to fix rates of income-tax and super-tax, [3] * * *

WHEREAS it is expedient [2]* * to fix rates of income-tax and super-tax [3]* * * * *; It is hereby enacted as follows:—

Short title and extent

1. *(1)* This Act may be called the Indian Finance Act, 1933.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. *[Fixation of salt duty.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II*

3. *[Amendment of Schedule II to Act VIII of 1898.] Rep. by the Indian Tariff Act, 1934 (XXXII of 1934), s. 13 and Sch. III.*

4. *[Inland postage rates.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

Income tax and super-tax.

5. *(1)* Income-tax for the year beginning on the 1st day of April, 1933, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees, by one-fourth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1933, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-fourth of the amount of the rate. XI of 1922.

(3) For the purposes of the Second Schedule " total income " means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. XI of 1922.

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule. XI of 1922.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 41.

rep., ibid.

6. [*Amendment of section 19, Act X of 1923.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

SCHEDULE I.—[Schedule to be inserted in the Indian Post Office Act, 1898.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

SCHEDULE II.

[*See section 5.*]

PART I.

Rates of Income-tax.

	Rate
A In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is Rs 1,000 or upwards, but is less than Rs. 1,500.	Two pies in the rupee [Provided that for the purpose of any assessment to be made ... is derived from salaries or from interest on securities paid in the financial year 1932-33 shall be four pies in the rupee, and for the purposes of refunds under sub-section (*1*) or sub-section (*3*) of section 48 in respect of dividends declared in the year ending 31st March, 1933, or of payments made in the said year of interest on securities or salaries, the rate applicable to the total income of the person claiming refund shall be at the rate of four pies]
(2) When the total income is Rs 1,500 or upwards, but is less than Rs 2,000.	Four pies in the rupee
(3) When the total income is Rs 2,000 or upwards, but is less than Rs. 5,000	Six pies in the rupee
(4) When the total income is Rs 5,000 or upwards, but is less than Rs 10,000	Nine pies in the rupee
(5) When the total income is Rs 10,000 or upwards, but is less than Rs 15,000	One anna in the rupee
(6) When the total income is Rs 15,000 or upwards, but is less than Rs. 20,000.	One anna and four pies in the rupee
(7) When the total income is Rs 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee
(8) When the total income is Rs 30,000 or upwards, but is less than Rs 40,000	One anna and eleven pies in the rupee
(9) When the total income is Rs 40,000 or upwards, but is less than Rs 1,00,000	Two annas and one pie in the rupee.
(10) When the total income is Rs 1,00,000 or upwards	Two annas and two pies in the rupee
B. In the case of every company and registered firm, whatever its total income	Two annas and two pies in the rupee.

PART II.

Rates of Super-tax.

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess.	*Nil.*
(b) for every rupee of the remainder of such excess.	One anna in the rupee
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess	*Nil*
(ii) for every rupee of the next twenty five thousand rupees of such excess	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess.	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess.	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess.	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess.	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess.	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess.	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess.	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess.	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess	Six annas and three pies in the rupee.

PART III.

Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue ; and such notice shall be deemed to be a notice of demand under section 29 of that Act

2. Any assessee in respect of whom such summary assessment has been made may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1933-34 of incomes of Rs 1,000 and upward and less than Rs 2,000 which have escaped assessment in the financial year 1932-33.

THE PROVINCIAL CRIMINAL LAW SUPPLEMENTING ACT, 1933.

ACT NO. IX OF 1933.[1]

[*13th April, 1933.*]

An Act to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes.

WHEREAS it is expedient to supplement by legislation in the Indian Legislature the provisions of the Bengal Public Security Act, 1932, the Bihar

Ben. Act XXII of 1932.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1933, Pt. V, p. 47.

PART II.

Rates of Super-tax.

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess	*Nil.*
(b) for every rupee of the remainder of such excess.	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess.	*Nil.*
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess.	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess.	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess.	Two annas and nine pies in the rupee
(iv) for every rupee of the next fifty thousand rupees of such excess.	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess.	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess.	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess.	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess.	Six annas and three pies in the rupee.

PART III.

Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue; and such notice shall be deemed to be a notice of demand under section 29 of that Act

2. Any assessee in respect of whom such summary assessment has been made may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1933-34 of incomes of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1932-33.

THE PROVINCIAL CRIMINAL LAW SUPPLEMENTING ACT, 1933.

ACT NO. IX OF 1933.[1]

[13th April, 1933.]

An Act to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes.

Ben. Act XXII of 1932.

WHEREAS it is expedient to supplement by legislation in the Indian Legislature the provisions of the Bengal Public Security Act, 1932, the Bihar

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1933, Pt. V, p. 47.

and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for the purposes hereinafter appearing; It is hereby enacted as follows:— B. and O. Act I of 1933. Bom. Act XVI of 1932. U. P. Act XIV of 1932. Punjab Act III of 1932.

Short title. **1.** This Act may be called the Provincial Criminal Law Supplementing Act, 1933.

Appeals. **2.** (*1*) An appeal shall lie to the High Court of Judicature at Fort William in Bengal from—

(*a*) any sentence passed by a Special Magistrate in any trial held under the Bengal Public Security Act, 1932, in the Presidency-town of Calcutta, and Ben. Act XXII of 1932.

(*b*) any sentence of imprisonment for a term exceeding 4 years passed by a Special Magistrate in any trial under the said Act held outside the Presidency-town of Calcutta.

(*2*) An appeal under sub-section (*1*) shall be presented within thirty days from the date of the sentence, and shall be disposed of by the High Court in the manner provided in Chapter XXXI of the Code of Criminal Procedure, 1898, for the hearing of appeals. V of 1898.

Effect of certain sections in provincial Acts. [1]**3.** Section 15 of the Bihar and Orissa Public Safety Act, 1933, section 29 of the Bombay Special (Emergency) Powers Act, 1932, and section 14 of the United Provinces Special Powers Act, 1932, shall have effect as if these sections had been enacted by the Indian Legislature. B. and O. Act I of 1933. Bom. Act XVI of 1932. U. P. Act XIV of 1932.

Jurisdiction barred. **4.** Except as provided in the Bengal Public Security Act, 1932, as supplemented by this Act, no proceeding or order purporting to be taken or made under the Bengal Public Security Act, 1932, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under the said Act. Ben. Act XXII of 1932. Ben. Act XXII of 1932.

Bar of issue of directions of the nature of a *habeas corpus*. **5.** The powers conferred by section 491 of the Code of Criminal Procedure, 1898, shall not be exercised in respect of any person arrested, or committed to or detained in custody under the provisions of the Punjab Criminal Law (Amendment) Act, 1932. V of 1898. Punjab Act III of 1932.

6. [*Certain powers of High Court not affected.*] *Rep. by the A. O.*

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[1] This section has been declared to be in force in the Sonthal Parganas by notification under the Sonthal Parganas Settlement Regulation (3 of 1872), s. 3 (*3*) (*a*): *see* B. and O. Gazette, 1931, Pt. II, p. 232.

THE INDIAN WIRELESS TELEGRAPHY ACT, 1933.

ACT NO. XVII OF 1933.[1]

[11th September, 1933.]

An Act to regulate the possession of wireless telegraphy apparatus.

WHEREAS it is expedient to regulate the possession of wireless telegraphy apparatus in British India; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Wireless Telegraphy Act, 1933. Short title, extent and commencement.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "wireless communication" means the making, transmitting or receiving of telegraphic, telephonic or other communications by means of electricity or magnetism without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus;

(*2*) "wireless telegraphy apparatus" means any apparatus, appliance, instrument or material used or capable of use in wireless communication, and includes any article determined by rule made under section 10 to be wireless telegraphy apparatus, but does not include any such apparatus, appliance, instrument or material commonly used for other electrical purposes, unless it has been specially designed or adapted for wireless communication or forms part of some apparatus, appliance, instrument or material specially so designed or adapted, nor any article determined by rule made under section 10 not to be wireless telegraphy apparatus, and

(*3*) "prescribed" means prescribed by rules made under section 10.

3. Save as provided by section 4, no person shall possess wireless telegraphy apparatus except under and in accordance with a license issued under this Act. Prohibition of possession of wireless telegraphy apparatus without license.

4. The [3][Central Government] may by rules made under this Act exempt any person or any class of persons from the provisions of this Act either generally or subject to prescribed conditions, or in respect of specified wireless telegraphy apparatus. Power of Central Government to exempt persons from provisions of the Act.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1933, Pt. V, p 8.

[2] 1st January, 1934 *see* Gazette of India, 1933, Pt. I, p 1131.

[3] Subs. by the A. O for "G G. in C."

[4] Subs. by the A. O. for "Gazette of India".

Licenses.

5. The telegraph authority constituted under the Indian Telegraph Act, 1885, shall be the authority competent to issue licenses to possess wireless telegraphy apparatus under this Act, and may issue licenses in such manner, on such conditions and subject to such payments as may be prescribed. XIII o

Offence and penalty.

6. *(1)* Whoever possesses any wireless telegraphy apparatus in contravention of the provisions of section 3 shall be punished, in the case of the first offence, with fine which may extend to one hundred rupees, and, in the case of a second or subsequent offence, with fine which may extend to two hundred and fifty rupees.

(2) For the purposes of this section a Court may presume that a person possesses wireless telegraphy apparatus if such apparatus is under his ostensible charge, or is located in any premises or place over which he has effective control.

(3) If in the trial of an offence under this section the accused is convicted the Court shall decide whether any apparatus in respect of which an offence has been committed should be confiscated, and, if it so decides, may order confiscation accordingly.

Power of search.

7. *(1)* A Presidency Magistrate, or a Magistrate of the first class or a Magistrate of the second class specially empowered by the [1][Central Government] in this behalf, may issue a warrant for the search, at any time between sunrise and sunset, of any building, vessel or place in which he has reason to believe that any wireless telegraphy apparatus, in respect of which an offence punishable under section 6 has been committed, is kept or concealed.

(2) The officer to whom a search warrant under sub-section *(1)* is addressed may enter into any building, vessel or place mentioned in the warrant and seize any wireless telegraphy apparatus in respect of which he had reason to believe an offence under section 6 has been committed.

Apparatus confiscated or having no owner to be property of Central Government.

8. All wireless telegraphy apparatus confiscated under the provisions of sub-section (3) of section 6, and all wireless telegraphy apparatus having no ostensible owner shall be the property of the [2][Central Government].

9. [*Power of Court to direct payment of fines to prescribed authority.*] *Rep. by the A. O.*

Power of Central Government to make rules.

10. *(1)* The [2][Central Government] may, by notification in the [3][Official Gazette], make rules[4] for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) determining that any article or class of article shall be or shall not be wireless telegraphy apparatus for the purposes of this Act ;

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[1] Subs. by the A. O. for "L. G."

[2] Subs. by the A. O. for "G G. in C."

[3] Subs by the A. O for "Gazette of India".

[4] For the Indian Wireless Telegraphy (Possession) Rules, 1933, made under this section, *see* Gazette of India, 1933, Pt. I, p. 1131.

(ii) the exemption of persons or classes of persons under section 4 from the provisions of this Act;

(iii) the manner of and the conditions governing the issue, renewal, suspension and cancellation of licenses, the form of licenses and the payments to be made for the issue and renewal of licenses;

(iv) the maintenance of records containing details of the acquisition and disposal by sale or otherwise of wireless telegraphy apparatus possessed by dealers in wireless telegraphy apparatus;

(v) the conditions governing the sale of wireless telegraphy apparatus by dealers in and manufacturers of such apparatus; and

(vi) determining the authority referred to in section 9.

(3) In making a rule under this section the [1][Central Government] may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees.

Saving of Indian Telegraph Act, 1885.

11. Nothing in this Act contained shall authorise the doing of anything prohibited under the Indian Telegraph Act, 1885, XIII of 1885 and no license issued under this Act shall authorise any person to do anything for the doing of which a license or permission under the Indian Telegraph Act, 1885, XIII of 1885. is necessary.

THE MURSHIDABAD ESTATE ADMINISTRATION ACT, 1933.

CONTENTS.

SECTIONS.

[1] Subs. by the A. O. for "G. G. in C.".

ACT No. XXIII OF 1933.[1]

[21st September, 1933.]

An Act to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager.

WHEREAS the Murshidabad Act, 1891, confirming and giving effect to an Indenture between the Secretary of State and the Nawab Bahadur of Murshidabad Amir-ul-Omrah, provides that in case the said Nawab Bahadur or any of his lineal heirs male successors to the titles shall contravene any of the terms of the said Indenture or shall disable himself from duly maintaining the dignity of his position and station it shall be lawful for the Secretary of State for the time being to enter into and upon the immoveable properties mentioned in the Indenture and to exercise certain powers therein specified in the manner therein set forth ; XV of 1891.

[2][AND WHEREAS by virtue of section 177 of the Government of India Act, 1935, the said indenture is, as from the commencement[3] of Part III of that Act, to have effect as if it had been made on behalf of the Province of Bengal and references therein to the Secretary of State in Council are to be construed accordingly ;] 26 Geo. 5, c. 2.

AND WHEREAS it is expedient to make further provision for the due exercise of [4][the said] powers by the [5][Provincial Government of Bengal] by the

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[1] [illegible] Gazette of India, 1932, Pt. V, p 224; and [illegible] India, 1933, Pt. V, p 138

[illegible]

appointment of a Manager who shall on behalf of the [1][Provincial Government of Bengal] exercise the powers aforesaid, and by defining the duties and powers of such Manager, and the manner in which the rents, issues and profits of the immoveable properties of the estate and the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in Bengal shall be applied;

AND WHEREAS it is further expedient to afford to the Nawab Bahadur protection against the disabilities to which he is exposed by reason of his embarrassed circumstances and to prevent further increase in his debts and to provide means for such repayments to his creditors as are compatible with the payment to the Nawab Bahadur of a sum sufficient for the maintenance of his position and dignity;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Murshidabad Estate Administration Act, 1933. **Short title and extent.**

(*2*) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.

2. In this Act, unless there is anything repugnant in the subject or context,— **Definitions.**

(*1*) "*immoveable properties of the estate*" means the properties contained in the Schedules of immoveable property annexed to the Indenture included in and confirmed by the Murshidabad Act, 1891, with any additional immoveable property added thereto under sub-section (*1*) of section 3 of that Act, and includes all immoveable property acquired under the provisions of section 32 of the Land Acquisition Act, 1894; XV of 1891. I of 1894.

(*2*) "issues and profits of the immoveable properties of the estate" includes all money awarded under the Land Acquisition Act, 1894, as compensation for the acquisition of any of the immoveable properties of the estate together with interest thereon; I of 1894.

(*3*) "Manager" means the officer appointed under section 3;

(*4*) "Nawab Bahadur" means the Nawab Bahadur of Murshidabad for the time being;

[2]* * * * * * *

(*6*) "Board of Revenue" means the Board of Revenue, Bengal;

(*7*) "prescribed" means provided for by this Act or by rules made under section 28.

3. [3][The Provincial Government of Bengal (hereinafter in this Act referred to as "the Provincial Government")] may, at any time after [4][the Provincial Government] has entered upon the immoveable properties of the estate in accordance with the provisions of the Murshidabad Act, 1891, by an order **Appointment of Manager.** XV of 1891.

[1] Subs by the A. O. for "Secretary of State".
[2] Cl (5) rep. by the A. O.
[3] Subs. by the A. O. for "The L. G."
[4] Subs. by the A. O. for "the Secretary of State".

published in the [1][Official Gazette] appoint an officer for the management on behalf of [2][the Provincial Government] of the whole or any portion of these properties and of the rents, issues and profits thereof and for the reception and application of the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in Bengal:

Provided that the management shall cease from such date as may be notified by the [3][Provincial Government] in the [1][Official Gazette] as the date of withdrawal by [2][the Provincial Government] from entry upon the immoveable properties of the estate:

Provided also that in the event of the death of a Nawab Bahadur the management shall not continue for more than sixty days after the date of his death.

Effect of order under section 3.

4. On the publication of an order for the appointment of a Manager under section 3, the following consequences shall ensue:—

first, all proceedings which may then be pending in any Civil Court in respect of any debts or liabilities to which the Nawab Bahadur may be subject shall be barred, and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

secondly, so long as such management continues, no suit or proceeding shall lie against the Nawab Bahadur, or the Secretary of State, [4][or the Province of Bengal] or the Manager, in respect of any debt or liability to which the Nawab Bahadur is subject, nor shall the Nawab Bahadur be liable to arrest for or in respect of the debts and liabilities to which he was at the time of such publication subject or in execution of any decree obtained before such publication nor shall his moveable property be liable to attachment or sale, under process of any Court for or in respect of such debts and liabilities;

thirdly, so long as such management continues—

(*a*) the Nawab Bahadur shall be incompetent to mortgage, charge, lease, settle or alienate the immoveable properties of the estate, or to grant valid receipts for the rents and profits arising or accruing therefrom;

(*b*) such property shall be exempt from attachment or sale under process of any Court; and

(*c*) the Nawab Bahadur shall be incapable of entering into any contract which may involve him in pecuniary liability; and

fourthly, any amount awarded, before the entry [5][of the Provincial Government] upon the immoveable properties of the estate, under the Land Acquisition Act, 1894, by way of compensation for I of 1894.

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[1] Subs. by the A. O. for "Calcutta Gazette".
[2] Subs. by the A. O. for "the Secretary of State".
[3] Subs. by the A. O for "L. G."
[4] Ins. by the A O
[5] Subs. by the A. O. for "of the Secretary of State".

immoveable properties of the estate acquired under that Act, if the amount has been invested in securities under section 32 of that Act or is deposited in Court pending such investment in land or securities, shall, together with all interest and other proceeds thereof not already paid to any person under the provisions of any law, be deliverable to the Manager on behalf [1][of the Provincial Government] to be disposed of in such manner as the Secretary of State[2] may think fit.

5. So long as the appointment of the Manager continues— Suits and appeals during management.

(*1*) in every suit or appeal to which the Secretary of State [3][or the Province of Bengal] in possession is a party the Manager shall be named as his representative for the purpose of such suit or appeal,

(*2*) in every pending suit or appeal concerning the properties under management [4][the Province of Bengal] in possession shall be a party in place of the Nawab Bahadur and the Manager shall be named as the representative of [4][the Province of Bengal] in possession for the purpose of the suit or appeal; and no application in any such suit or appeal shall be made to the Court on behalf of [4][the Province of Bengal] in possession except by the Manager;

(3) the Court upon application by the Manager or by any party to the suit may order that the plaint or memorandum of appeal be amended so as to conform with the requirements of clause (*1*) or that the Manager be named as the representative of the Secretary of State[2] in possession as required by clause (*2*) of this section.

6. (*1*) The Manager shall receive and recover all rents, issues and profits due in respect of the immoveable properties of the estate, and shall upon receiving such rents, issues and profits give receipts therefor. Manager to receive rents, issues and profits

(*2*) The Manager shall receive the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in Bengal and shall give receipts therefor.

7. (*1*) From the sums received under sub-sections (*1*) and (*2*) of section 6, the Manager shall pay— Application by Manager of sums received.

first, to the Nawab Bahadur such monthly sum, not being in any case less than Rs. 9,583-5-4, as the [5][Provincial Government] may fix in this behalf;

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[1] Subs. by the A. O. for "of the Secretary of State".
[2] *Sic* This should, it seems, have been amended by the A. O. to read "Provincial Government".
[3] Ins. by the A. O
[4] Subs. by the A. O. for "the Secretary of State".
[5] Subs. by the A. O. for "L. G."

published in the [1][Official Gazette] appoint an officer for the management on behalf of [2][the Provincial Government] of the whole or any portion of these properties and of the rents, issues and profits thereof and for the reception and application of the monthly sum of Rs 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in Bengal:

Provided that the management shall cease from such date as may be notified by the [3][Provincial Government] in the [1][Official Gazette] as the date of withdrawal by [2][the Provincial Government] from entry upon the immoveable properties of the estate:

Provided also that in the event of the death of a Nawab Bahadur the management shall not continue for more than sixty days after the date of his death.

Effect of order under section 3.

4. On the publication of an order for the appointment of a Manager under section 3, the following consequences shall ensue:—

first, all proceedings which may then be pending in any Civil Court in respect of any debts or liabilities to which the Nawab Bahadur may be subject shall be barred, and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

secondly, so long as such management continues, no suit or proceeding shall lie against the Nawab Bahadur, or the Secretary of State, [4][or the Province of Bengal] or the Manager, in respect of any debt or liability to which the Nawab Bahadur is subject, nor shall the Nawab Bahadur be liable to arrest for or in respect of the debts and liabilities to which he was at the time of such publication subject or in execution of any decree obtained before such publication nor shall his moveable property be liable to attachment or sale, under process of any Court for or in respect of such debts and liabilities;

thirdly, so long as such management continues—

(*a*) the Nawab Bahadur shall be incompetent to mortgage, charge, lease, settle or alienate the immoveable properties of the estate, or to grant valid receipts for the rents and profits arising or accruing therefrom;

(*b*) such property shall be exempt from attachment or sale under process of any Court; and

(*c*) the Nawab Bahadur shall be incapable of entering into any contract which may involve him in pecuniary liability; and

fourthly, any amount awarded, before the entry [5][of the Provincial Government] upon the immoveable properties of the estate, under the Land Acquisition Act, 1894, by way of compensation for I of 1894.

ate".

immoveable properties of the estate acquired under that Act, if the amount has been invested in securities under section 32 of that Act or is deposited in Court pending such investment in land or securities, shall, together with all interest and other proceeds thereof not already paid to any person under the provisions of any law, be deliverable to the Manager on behalf [1][of the Provincial Government] to be disposed of in such manner as the Secretary of State[2] may think fit

5. So long as the appointment of the Manager continues— Suits and appeals during management.

(*1*) in every suit or appeal to which the Secretary of State [3][or the Province of Bengal] in possession is a party the Manager shall be named as his representative for the purpose of such suit or appeal;

(*2*) in every pending suit or appeal concerning the properties under management [4][the Province of Bengal] in possession shall be a party in place of the Nawab Bahadur and the Manager shall be named as the representative of [4][the Province of Bengal] in possession for the purpose of the suit or appeal; and no application in any such suit or appeal shall be made to the Court on behalf of [4][the Province of Bengal] in possession except by the Manager;

(*3*) the Court upon application by the Manager or by any party to the suit may order that the plaint or memorandum of appeal be amended so as to conform with the requirements of clause (*1*) or that the Manager be named as the representative of the Secretary of State[2] in possession as required by clause (*2*) of this section.

6. (*1*) The Manager shall receive and recover all rents, issues and profits due in respect of the immoveable properties of the estate, and shall upon receiving such rents, issues and profits give receipts therefor. Manager to receive rents, issues and profits.

(*2*) The Manager shall receive the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in Bengal and shall give receipts therefor.

7. (*1*) From the sums received under sub-sections (*1*) and (*2*) of section 6, the Manager shall pay— Application by Manager of sums received.

first, to the Nawab Bahadur such monthly sum, not being in any case less than Rs. 9,583-5-4, as the [5][Provincial Government] may fix in this behalf,

[1] Subs. by the A. O. for "of the Secretary of State".
[2] *Sic.* This should, it seems, have been amended by the A. O. to read "Provincial Government".
[3] Ins. by the A. O.
[4] Subs. by the A O for "the Secretary of State".
[5] Subs. by the A. O. for "L. G."

secondly, the Government revenue, cesses, rates and taxes and all debts and liabilities for the time being due or incurred to Government or to any local authority;

thirdly, in the case of property held by the Nawab Bahadur as tenant, the rent and cess due to the superior landlord in respect of the said property;

fourthly, the cost of such repairs and improvements of the immoveable properties of the estate as appear necessary to the Manager and are approved by the Board of Revenue,

and shall apply the residue to the discharge of the costs of the management, to the payment of expenditure incurred in litigation and to the settlement in accordance with the scheme approved by the Board of Revenue under section 14 of such debts and liabilities of the Nawab Bahadur as may be established under the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (*1*), it shall be lawful for the Manager to pay out of the sums received under sub-sections (*1*) and (*2*) of section 6 any sum required to meet such expenditure on any other object or for any other purpose as the [1][Provincial Government] may from time to time sanction.

Notice to claimants.

8. As soon as may be after the publication of the order for the appointment of a Manager under section 3 the Manager shall publish in the prescribed manner a notice in English and Bengali calling upon all persons having claims against the Nawab Bahadur to notify such claims in writing to the Manager within six months from the date of the notice.

Presentation of claims.

9. Every such claimant shall, along with his claim, present to the Manager full particulars thereof, together with all documents on which he relies in support thereof, and the Manager may refuse to receive in evidence on the claimant's behalf at the investigation of the claim any document not so presented.

Debt not duly notified to be barred.

10. Every debt or liability, except debts due or liabilities incurred to [2][the Crown] or to any local authority and rent due to a superior landlord from the Nawab Bahadur as tenant of any property, which is not duly notified to the Manager within the time and in the manner mentioned in sections 8 and 9 shall be barred:

Provided that if the Manager is satisfied that the claimant was for reasonable cause unable to comply with the provisions of sections 8 and 9, the Manager may admit his claim within a further period of six months from the expiration of the period of six months specified in section 8.

Determination of debts.

11. The Manager shall in the prescribed manner determine the amount of the principal of all debts and liabilities not barred under section 10 justly due to the several creditors of the Nawab Bahadur and to persons holding

[1] Subs. by the A. O. for "Secretary of State".
[2] Subs. by the A. O. for "Govt."

mortgages, charges or liens on the property of the Nawab Bahadur, and shall determine in like manner the interest, if any, due at the date of such determination in respect of such debts and liabilities and may reduce the rates of interest charged as appears to him just and proper.

12. The Manager may inquire into the sufficiency of the consideration for which any lease, settlement, grant, mortgage, charge or lien was given and whether it was given in contravention of the conditions of the Murshidabad Act, 1891, and if satisfied that the consideration was insufficient or that such lease, settlement, grant, mortgage, charge or lien was given in contravention of the said Act may, by order in writing, set aside or modify such lease, settlement, grant, mortgage, charge or lien; and any such order, subject to the appeal provided in section 13, shall have the force of a decree of a competent Civil Court and be enforceable as such. Power to inquire into consideration for leases, etc. XV of 1891.

13. (*1*) An appeal shall lie to the Board of Revenue against any order by the Manager— Appeals to Board of Revenue.

(*a*) refusing to receive a document under section 9; or

(*b*) refusing to admit a claim under the proviso to section 10; or

(*c*) determining the amount of a debt or liability or of interest thereon, or reducing the rate of interest, under section 11; or

(*d*) setting aside or modifying a lease, settlement, grant, mortgage, charge or lien under section 12.

(*2*) If no such appeal is preferred within six weeks from the date of the order, the decision of the Manager shall, subject to the provisions of section 22, be final.

14. (*1*) When the amount due in respect of the debts and liabilities mentioned in section 11 has been finally determined, the Manager shall prepare and submit to the Board of Revenue a schedule of such debts and liabilities, and a scheme for the settlement thereof in whole or in part out of the residue referred to in section 7 annually available during the lifetime of the Nawab Bahadur, and the Board of Revenue may approve the scheme without modification or subject to such modification as it deems expedient. Scheme for settlement of debts.

(*2*) The scheme shall provide for payment in full, as soon as may be, of—

(*a*) first, arrears of wages due to servants of the Nawab Bahadur, determined in accordance with the foregoing provisions, and

(*b*) secondly, claims of each creditor whose claims in the aggregate do not exceed five hundred rupees, as so determined;

and the scheme shall further provide that any balance left after meeting the above claims and each annual residue thereafter shall be distributed rateably among the other creditors of the Nawab Bahadur in payment of their claims, as so determined.

15. The Manager may from time to time call for further and more detailed particulars of any claim preferred before him under this Act and may at his Power to call for further particulars.

discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to summon witnesses.

16. The Manager may for the purpose of any investigation under this Act summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908. V of 1908.

Investigation to be deemed a judicial proceeding.

17. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with such claim, shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code; and every statement made by any person examined by or before the Manager with reference to any such investigation, whether upon oath or otherwise, shall be deemed to be evidence within the meaning of the said Code. XLV of 18[illegible]

Power to order production of accounts, papers, etc., and evidence of title

18. (*1*) The Collector of Murshidabad may on the application of the Manager order all persons who are or were in the employ of the estate of the Nawab Bahadur to attend before him; and may order any person to deliver up any accounts, papers or moveable property belonging to the estate or any accounts or papers relating to the immoveable property of the estate or to any other property of the estate which the Manager has reason to believe are in such person's possession or control; and may order all holders of tenures or under-tenures on any such property to produce their title to such tenures or under-tenures.

(*2*) Any person who refuses to comply with an order under sub-section (*1*) may be punished by the Collector of Murshidabad with fine not exceeding five hundred rupees:

Provided that an appeal shall lie to the Board of Revenue against any order of fine passed by the Collector under sub-section (*2*).

Powers of Manager for realisation of rents, etc.

19. (*1*) The Manager shall have, for the purpose of realising and recovering the rents, issues and profits of the immoveable properties of the estate, the same powers as the Nawab Bahadur would have had for such purpose had the [1][Provincial Government] not entered into the said properties, and all arrears of rent and all demands recoverable as rent, and all interest due on such arrears or demands shall together with all costs incurred for realising the same be recoverable as public demands.

(*2*) If such properties or any part thereof be in the possession of any mortgagee or conditional vendee, the Manager may apply to the Collector within whose jurisdiction the property is situated, and the Collector shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions elsewhere contained in this Act.

(*3*) If such properties or any part thereof be in possession of a Receiver appointed by a Court, the Manager may apply to the Court, and the Court

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[1] Subs. by the A. O. for "Secretary of State".

shall cause the same to be delivered to the Manager together with any receipts which may be in the hands of the Receiver or the Court at the time of the application.

20. The Manager may, subject to the prescribed conditions, make settlement of all or any of the immoveable properties of the estate and may for this purpose execute any lease or counterpart of a lease : Power to lease.

Provided that, unless the settlement is of a kind authorised by rule made under section 28, its terms and conditions shall have been previously approved by the [1][Provincial Government].

21. The Manager may enter into any contract or take any action which in his opinion is necessary for the proper care and management of the immoveable properties of the estate and of the rents, issues and profits thereof or for the maintenance of the position and dignity of the Nawab Bahadur and which is not inconsistent with any provision of this Act or with any rule made under section 28 : Power of Manager to contract and take action for the benefit of the estate

Provided that if he is not empowered by any other provision of this Act or by any rule made under section 28 to enter on such contract or to take such action he shall obtain the previous sanction of the Board of Revenue before entering upon the contract or taking the action.

22. (*1*) All orders or proceedings of the Manager in the exercise of his functions under this Act shall be subject to the supervision and control of the Board of Revenue. Powers of supervision and control.

(*2*) All orders or proceedings of the Board of Revenue under this Act shall be subject to the supervision and control of the [1][Provincial Government].

(*3*) The supervising authority in each case may of its own motion review and if it thinks fit revise, modify or reverse any order or proceeding

23. The Manager shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code Manager to be deemed a public servant.

XLV of 1860.

24. Any fine imposed under this Act shall be recoverable as a public demand. Recovery of fines.

25. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act. Bar of suits, etc., against certain persons

26. If at the time of the withdrawal of the [2][Provincial Government] from entry upon the immoveable properties of the estate, any difficulty arises in connection with the restoration to the Nawab Bahadur or to his successor of the properties and rights possessed and exercised by the [2][Provincial Government], the [1][Provincial Government] may by order authorise the doing of any matter or thing which appears to it necessary to facilitate such restoration. Power of Provincial Government to make orders.

27. Notwithstanding anything contained elsewhere in this or any other Act, the withdrawal by the [2][Provincial Government] from entry upon the Effect of withdrawal from entry

[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "Secretary of State".

by Provincial Government. immoveable properties of the estate shall not have the effect of reviving any of the proceedings referred to in clause *first* of section 4 if the debt or liability in respect of which such proceedings were instituted is barred under section 10.

Nothing in section 4 shall bar the revival after such withdrawal of any other of the proceedings referred to in the said clause:

Provided that no Court shall entertain any suit or proceeding against the Nawab Bahadur in which the amount claimed is in excess of the amount determined under section 11, 13 or 22, as the case may be, together with any further interest due thereon, or in which interest is claimed at a rate higher than the rate determined as just and proper under those sections.

Power to make rules.

28. (*1*) The Board of Revenue may, with the previous sanction of the [1][Provincial Government], make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) the security to be required from subordinate officers under this Act;

(*b*) the procedure to be followed by the Manager in the discharge of his functions under this Act, the accounts which shall be kept by him, and the manner in which such accounts shall be audited;

(*c*) the terms, conditions and limitations under which leases may be granted;

(*d*) the notices to be given under this Act and the manner of publication of such notices;

(*e*) the procedure to be followed by claimants in presenting claims, and by the Manager in the investigation of such claims;

(*f*) the procedure to be followed in determining under section 11 the debts and liabilities due to creditors and other persons;

(*g*) the allowance of interest on the principal of each of the debts and liabilities as determined under section 11 from the date on which it was incurred to the date of the determination and on the aggregate amount of such debts and liabilities from the date of the determination to the date of payment;

(*h*) the preparation of the schedule of debts and liabilities and of the scheme referred to in section 14 and the order of payment of such debts and liabilities;

(*i*) the powers of the Manager to make or sanction settlements; and

(*j*) the procedure to be followed in appeals under this Act.

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[1] Subs. by the A. O. for "L. G."

THE INDIAN TEA CONTROL ACT, 1933.

CONTENTS.

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ACT NO. XXIV OF 1933[1].

[*21st September, 1933.*]

An Act to provide for the control of the export of tea from India and for the control of the extension of the cultivation of tea in British India.

WHEREAS it is expedient to provide for the control of the export of tea from India and for the control of the extension of the cultivation of tea in British India; It is hereby enacted as follows:—

PRELIMINARY.

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Indian Tea Control Act, 1933.

(*2*) It extends to the whole of British India.

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

(*4*) It shall not remain in force after the 31st day of March, 1938.

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[1] [illegible] V, p. 185.

[2] [illegible]

[3] [illegible]

[4] [illegible]

(Preliminary. Chapter I.—The Indian Tea Licensing Committee.)

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

[1][(*a*) "Committee" means the Indian Tea Licensing Committee constituted under this Act;]

(*b*) "exported overseas" means exported by sea from British India to any place [2][outside India and Burma] other than the French and Portuguese Settlements bounded by India,

(*c*) "prescribed" means prescribed by rules made under this Act,

(*d*) "tea" means—

(i) in Chapter III, the plant *Camellia Thea* (Linn.), and

(ii) in Chapter II, the commodity known as tea made from the leaves of that plant, and includes green tea leaves but excludes tea waste and Burmese pickled tea; and

(*e*) the "Tea Licensing Resolution" means the Resolution of the Government of India published under Finance Department (Central Revenues) Notification No. 30, dated the 20th May, 1933

CHAPTER I

The Indian Tea Licensing Committee.

3. (*1*) The [3][Central Government] shall constitute a Committee, to be called the Indian Tea Licensing Committee, consisting of the following members:— Constitution of the Indian Tea Licensing Committee.

(*a*) six members, one to be nominated by each of the following bodies, namely,—

(i) the Indian Tea Association, Calcutta,

(ii) the Assam Branch of that Association,

(iii) the Surma Valley Branch of that Association,

(iv) the Dooars Planters Association,

(v) the Indian Tea Planters Association, Jalpaiguri, and the Terai Indian Planters Association, Terai, acting together, and

(vi) the Darjeeling Planters Association and the Terai Planters Association, acting together,

(*b*) two members to be nominated by the [4][Central Government] to represent tea estates owned by Indians in Assam, one for the Assam Valley and the other for the Surma Valley;

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[1] Subs. by the A. O. for the original cl. (*a*), as amended by the Indian Tea Control (Amend.

(*Preliminary.*)

CHAPTER III.

CONTROL OVER THE EXTENSION OF TEA CULTIVATION.

CHAPTER IV.

PENALTIES AND PROCEDURE.

ACT No. XXIV OF 1933[1].

[21st September, 1933.]

An Act to provide for the control of the export of tea from India and for the control of the extension of the cultivation of tea in British India.

WHEREAS it is expedient to provide for the control of the export of tea from India and for the control of the extension of the cultivation of tea in British India; It is hereby enacted as follows:—

PRELIMINARY.

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Indian Tea Control Act, 1933.

(*2*) It extends to the whole of British India.

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

(*4*) It shall not remain in force after the 31st day of March, 1938.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1933, Pt. V, p. 185.
[2] 15th November, 1933: *see* Gazette of India, 1933, Pt. I, p 1125.
[3] Subs. by the A. O. for "G. G. in C."
[4] Subs by the A. O. for "Gazette of India".

(Preliminary. Chapter I.—The Indian Tea Licensing Committee)

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

[1][(*a*) "Committee" means the Indian Tea Licensing Committee constituted under this Act ;]

(*b*) "exported overseas" means exported by sea from British India to any place [2][outside India and Burma] other than the French and Portuguese Settlements bounded by India ,

(*c*) "prescribed" means prescribed by rules made under this Act ;

(*d*) "tea" means—

(i) in Chapter III, the plant *Camellia Thea* (Linn), and

(ii) in Chapter II, the commodity known as tea made from the leaves of that plant, and includes green tea leaves but excludes tea waste and Burmese pickled tea , and

(*e*) the "Tea Licensing Resolution" means the Resolution of the Government of India published under Finance Department (Central Revenues) Notification No. 30, dated the 20th May, 1933.

CHAPTER I.

THE INDIAN TEA LICENSING COMMITTEE.

3. (*1*) The [3][Central Government] shall constitute a Committee, to be called the Indian Tea Licensing Committee, consisting of the following members :— Constitution of the Indian Tea Licensing Committee.

(*a*) six members, one to be nominated by each of the following bodies, namely,—

(i) the Indian Tea Association, Calcutta,

(ii) the Assam Branch of that Association,

(iii) the Surma Valley Branch of that Association,

(iv) the Dooars Planters Association,

(v) the Indian Tea Planters Association, Jalpaiguri, and the Terai Indian Planters Association, Terai, acting together, and

(vi) the Darjeeling Planters Association and the Terai Planters Association, acting together ;

(*b*) two members to be nominated by the [4][Central Government] to represent tea estates owned by Indians in Assam, one for the Assam Valley and the other for the Surma Valley ;

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[1] Subs. by the A. O. for the original cl. (*a*), as amended by the Indian Tea Control (Amendment) Act, 1936 (17 of 1936), s 2.
[2] Subs. by the A O. for "outside India ".
[3] Subs by the A. O for "G. G. in C "
[4] Subs by the A. O for "L. G. of Assam ".

(Chapter I.—The Indian Tea Licensing Committee.)

(*c*) two members to be nominated by the United Planters Association of Southern India, one representing tea estates in British India, and the other representing tea estates in Indian States; and

(*d*) one member to be nominated by the [1][Central Government] to represent tea estates owned in Southern India by Indians;

Provided that any nomination, made in accordance with the above provisions, of any member of the Licensing Committee constituted under the Tea Licensing Resolution, shall be deemed to have been duly made under this Act.

(*2*) As soon as may be after the commencement of this Act the [2][Central Government] shall publish in the [3][Official Gazette] the names of all members of the Committee.

Vacancies.

4. (*1*) If any authority or body fails to make within a reasonable time any nomination which it is entitled to make under section 3, the [2][Central Government] may [4][itself] nominate a member to fill the vacancy.

(*2*) Where a member of the Committee dies, resigns, ceases to reside in India or becomes incapable of acting, the [2][Central Government] may, on the recommendation of the authority or body which is entitled to make the first nomination under section 3, or where such recommendation is not made within a reasonable time, then on [5][its] own initiative, nominate a person to fill the vacancy.

(*3*) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.

Chairman, sub-committees and executive officers.

5. The Committee shall elect a Chairman from amongst themselves, and may appoint such sub-committees and executive officers as may be necessary for the efficient performance of the duties imposed upon it by this Act:

Provided that the Chairman elected and any sub-committee or executive officer appointed by the Licensing Committee constituted under the Tea Licensing Resolution shall be deemed to have been duly elected and appointed under this Act.

Power to make by-laws.

6. (*1*) The Committee may make by-laws consistent with this Act and with the rules made thereunder for all or any of the following matters, namely:—

(*a*) the regulation of the procedure to be followed at meetings of the Committee;

(*b*) the appointment of sub-committees;

(*c*) the delegation to sub-committees, members or officers of the Committee of any of the powers of the Committee under this Act;

(*d*) the determination of the travelling allowances of the members;

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[1] Subs. by the A. O. for "L. G. of Madras".
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "Gazette of India".
[4] Subs. by the A. O. for "himself".
[5] Subs. by the A. O. for "his".

(*e*) the appointment, promotion and dismissal of officers and servants of the Committee, and the creation and abolition of appointments of such officers and servants;

(*f*) the regulation of the grant of pay and leave to such officers and servants, and

(*g*) any other matter in respect of which by-laws may be made under this Act or the rules made thereunder

(*2*) All by-laws made under this section shall be subject to the previous sanction of the [1][Central Government]

7. (*1*) Save in respect of proceedings and orders under section 27, all acts of the Committee shall be subject to the control of the [1][Central Government], [2][which] may cancel, suspend or modify as [3][it] thinks fit any such act. **Central Government's power of control.**

(*2*) The records of the Committee shall be open to inspection at all reasonable times by any officer authorised in this behalf by the [1][Central Government].

8. (*1*) The Committee shall keep accounts of all fees received by it under this Act, and of the manner in which they are expended. **Keeping and auditing of accounts.**

(*2*) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the [1][Central Government]; and such auditors shall have power to disallow any item which has been, in their opinion, expended otherwise than in pursuance of the purposes of this Act.

[4][**9.** (*1*) The Central Government may, by notification in the Official Gazette, declare the Committee to be dissolved, and on the date of the publication of such notification the Committee shall stand dissolved and this Act shall be deemed to be repealed **Dissolution of Committee.**

(*2*) When the Committee is dissolved, either under this section or by the expiry of this Act, the unexpended balance of fees received by the Committee under this Act shall lapse to the Central Government]

10. The [1][Central Government] may, by notification in the [5][Official Gazette], make rules— **Power to make rules**

(*a*) providing for the establishment and maintenance of offices by the Committee;

(*b*) providing for the conduct of business by the Committee and determining the number of members which shall form a quorum at meetings,

(*c*) providing for the maintenance by the Committee of a record of all business transacted and submission of copies thereof to [6][the Central Government];

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[1] S[illegible] by the A. O. for "G. G. in C."

[illegible]

[illegible] the Indian Tea Control (Amend.

[illegible]

(Chapter I.—The Indian Tea Licensing Committee. Chapter II.—Control over the Export of Tea.)

(*d*) regulating the preparation of annual estimates of receipts and expenditure ;

(*e*) regulating the keeping of accounts of receipts and expenditure ;

(*f*) determining the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest ; and

(*g*) generally, to carry out the provisions of this Chapter.[1]

CHAPTER II.

CONTROL OVER THE EXPORT OF TEA

Limitation of application of Chapter.

11. Nothing in this Chapter shall apply to tea—

(*a*) proved to the satisfaction of the Customs Collector to have been imported into British India from any port [2][outside India and Burma], or

(*b*) shipped as stores on board any vessel, in such quantity as the Customs Collector considers reasonable having regard to the numbers of the crew and passengers and the length of the voyage on which the vessel is about to depart, or

(*c*) exported by parcel post.

Method of control of export of tea.

12. (*1*) No tea shall be exported overseas unless covered by a licence issued by or on behalf of the Committee [3]* * *.

(*2*) No tea shall be exported by land or sea to any of the French or Portuguese Settlements bounded by India unless covered by a permit issued by or on behalf of the Committee [3]* * *.

The Indian Overseas Export Allotment.

13. (*1*) The Indian Overseas Export Allotment for the financial year 1933-34, that is, the total quantity of tea which may be exported overseas during that year, including tea exported overseas during that year before the commencement of this Act, shall be 320, 570, 560 pounds avoirdupois.

(*2*) The Indian Overseas Export Allotment for succeeding financial years shall be declared by the [4][Central Government] by notification in the [5][Official Gazette], after consulting the Committee and paying due regard to all interests concerned.[6]

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[1] Ch. IA relating to the Burma Tea Licensing Authority which had been ins. by the Indian Tea Control (Amendment) Act, 1936 (17 of 1936), s. 4, was rep. by the A. O.

[2] [illegible] the A. O.

[illegible] the A. O

(Chapter II.—Control over the Export of Tea.)

14. *(1)* The export quota of each tea estate for each financial year, that is, the total quantity of tea which may be exported overseas by the owner of the estate during that year, shall be determined [1]* * * by the Committee [1]* * *, in the prescribed manner. Export quotas of tea estates.

[2][*(2)* The total of all export quotas for any financial year shall not exceed the Indian Overseas Export Allotment for that year.]

15. *(1)* The owner of a tea estate to which a quota has been allotted for any financial year shall have a right to obtain at any time during that year export licences to cover the export overseas of tea up to the amount of the unexhausted balance of the quota, that is, up to the amount of the quota less the amount for which export licences have already been issued against it: Right to obtain export licences.

Provided that the unexhausted balance of any quota at any time during the financial year 1933-34 after the commencement of this Act shall be the amount of the quota less—

(*a*) the amount for which export licences have already been issued against the quota under this Act, and

(*b*) the amount for which export licences were issued against the quota by the Licensing Committee constituted under the Tea Licensing Resolution, and

(*c*) the amount of tea produced on the estate and exported overseas after the 31st day of March, 1933, and before the 26th day of May, 1933

(2) The right of the owner of a tea estate under this section may be transferred in whole or in part, and subject to proof of the transfer to the satisfaction of the Committee [3]* * *, the transferee shall have a right to obtain export licences up to the amount covered by the transfer or up to the amount of the unexhausted balance of the quota, whichever may be less [3]* * *.

16. *(1)* The owner of any tea estate to which an overseas export quota has been allotted, or any transferee of his right, may, at any time before the 21st day of March of the financial year to which the quota relates, apply in writing to the Committee [4]* * * for an export licence covering a stated quantity of tea Grant of export licences.

(2) If the unexhausted balance of the quota is sufficient to cover the stated quantity, the Committee [4]* * * shall, on receipt of the requisite fee, issue an export licence covering the stated quantity.

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[1] Certain words ins. by the Indian Tea Control (Amendment) Act, 1936 (17 of 1936), s. 7, were rep by the A. O.

[2] Subs by the A. O for the sub section which had been subs by Act 17 of 1936, s. 7, for [illegible]

[illegible] the proviso added to sub-section [illegible]

[illegible] the A. O.

(Chapter I.—The Indian Tea Licensing Committee. Chapter II.—Control over the Export of Tea.)

(*d*) regulating the preparation of annual estimates of receipts and expenditure;

(*e*) regulating the keeping of accounts of receipts and expenditure;

(*f*) determining the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest; and

(*g*) generally, to carry out the provisions of this Chapter.[1]

CHAPTER II.

CONTROL OVER THE EXPORT OF TEA.

Limitation of application of Chapter.

11. Nothing in this Chapter shall apply to tea—

(*a*) proved to the satisfaction of the Customs Collector to have been imported into British India from any port [2][outside India and Burma], or

(*b*) shipped as stores on board any vessel, in such quantity as the Customs Collector considers reasonable having regard to the numbers of the crew and passengers and the length of the voyage on which the vessel is about to depart, or

(*c*) exported by parcel post.

Method of control of export of tea.

12. (*1*) No tea shall be exported overseas unless covered by a licence issued by or on behalf of the Committee [3]* * *.

(*2*) No tea shall be exported by land or sea to any of the French or Portuguese Settlements bounded by India unless covered by a permit issued by or on behalf of the Committee [3]* * *.

The Indian Overseas Export Allotment.

13. (*1*) The Indian Overseas Export Allotment for the financial year 1933-34, that is, the total quantity of tea which may be exported overseas during that year, including tea exported overseas during that year before the commencement of this Act, shall be 320, 570, 560 pounds avoirdupois.

(*2*) The Indian Overseas Export Allotment for succeeding financial years shall be declared by the [4][Central Government] by notification in the [5][Official Gazette], after consulting the Committee and paying due regard to all interests concerned.[6]

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[1] [illegible] ...en ins. by the Indian [illegible] O [illegible]

[5] Subs. by the A. O. for "Gazette of India".

[6] Sub-section (3), added by Act 17 of 1936, s. 6, was rep. by the A. O

(Chapter II.—Control over the Export of Tea.)

Export quotas of tea estates.

14. *(1)* The export quota of each tea estate for each financial year, that is, the total quantity of tea which may be exported overseas by the owner of the estate during that year, shall be determined [1]* * * by the Committee [1]* * *, in the prescribed manner.

[2][(2) The total of all export quotas for any financial year shall not exceed the Indian Overseas Export Allotment for that year.]

Right to obtain export licences.

15. *(1)* The owner of a tea estate to which a quota has been allotted for any financial year shall have a right to obtain at any time during that year export licences to cover the export overseas of tea up to the amount of the unexhausted balance of the quota, that is, up to the amount of the quota less the amount for which export licences have already been issued against it:

Provided that the unexhausted balance of any quota at any time during the financial year 1933-34 after the commencement of this Act shall be the amount of the quota less—

(a) the amount for which export licences have already been issued against the quota under this Act, and

(b) the amount for which export licences were issued against the quota by the Licensing Committee constituted under the Tea Licensing Resolution, and

(c) the amount of tea produced on the estate and exported overseas after the 31st day of March, 1933, and before the 26th day of May, 1933.

(2) The right of the owner of a tea estate under this section may be transferred in whole or in part, and subject to proof of the transfer to the satisfaction of the Committee [3]* * *, the transferee shall have a right to obtain export licences up to the amount covered by the transfer or up to the amount of the unexhausted balance of the quota, whichever may be less [3]* * *.

Grant of export licences.

16. *(1)* The owner of any tea estate to which an overseas export quota has been allotted, or any transferee of his right, may, at any time before the 21st day of March of the financial year to which the quota relates, apply in writing to the Committee [4]* * * for an export licence covering a stated quantity of tea.

(2) If the unexhausted balance of the quota is sufficient to cover the stated quantity, the Committee [4]* * * shall, on receipt of the requisite fee, issue an export licence covering the stated quantity.

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[1] Certain words ins. by the Indian Tea Control (Amendment) Act, 1936 (17 of 1936), s. 7, were rep. by the A. O.

[2] Subs. by the A. O. for the sub-section which had been subs. by Act 17 of 1936, s. 7, for the original sub-section (2).

[3] Certain words ins. after the word "Committee" and the proviso added to sub-section (2) by Act 17 of 1936, s. 8, were rep. by the A. O.

[4] Certain words ins. by Act 17 of 1936, s. 9, were rep. by the A. O.

(Chapter II.—Control over the Export of Tea.)

(3) Every licence shall be in duplicate in the prescribed form, shall bear the date of its issue, and shall be valid up to the end of the financial year in which it is issued:

Provided that, save as provided in section 17, the Committee [1]* * * *shall not date or issue any export licence after the end of the financial year in* which the application for it was made.

Special export licences.

17. (1) Where the tea covered by an export licence has not been exported overseas before the end of the financial year in which the licence was issued, the person to whom the licence was granted may, before the expiry of the first fourteen days of the following financial year, forward the licence to the Committee [2]* * * and submit therewith an application for a special export licence covering the same quantity of tea, and the Committee [2]* * * shall, on receipt of the requisite fee, if any, issue a special export licence accordingly.

(2) A special export licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid up to the 30th day of June of the year in which it was issued.

(3) The quantity of tea covered by a special export licence shall be accounted for against the export quota of the year in which the original licence was issued.

Committee to maintain accounts of quotas.

18. (1) The Committee [3]* * * shall [3]* maintain an account of every export quota, showing, in addition to such other particulars as the Committee [3]* * * may think fit, the licences issued against it and the unexhausted balance:

Provided that for the financial year 1933-34 each account shall show as single items the amounts set off against the quota under clauses (b) and (c) *of the proviso to sub-section (1) of section 15.*

(2) Any owner of a tea estate shall be entitled, on payment of the requisite fee, to a copy of the account relating to his quota, certified in the manner laid down in the by-laws.

Tea for export to be covered by licence or permit.

19. (1) No consignment of tea shall be shipped or waterborne to be shipped for export overseas until the owner has delivered to the Customs Collector a valid export licence or special export licence in duplicate covering the quantity to be shipped.

(2) No consignment of tea shall be shipped or waterborne to be shipped for export to any of the French or Portuguese Settlements bounded by India until the owner has delivered to the Customs Collector a permit granted in this behalf by the Committee [4]* * * covering the quantity to be shipped.

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[1] *See* foot note 4 on pre-page.
[2] Certain words ins. by the Indian Tea Control (Amendment) Act, 1936 (17 of 1936), s. 10, were rep. by the A. O.
[3] Certain words ins. by Act 17 of 1936, s. 11, were rep. by the A. O.
[4] Certain words ins. by Act 17 of 1936, s. 12, were rep. by the A. O.

(Chapter II.—Control over the Export of Tea.)

(3) No permit for the passage of any tea by land into any of the French or Portuguese Settlements bounded by India shall be granted under sub-section (1) of section 5 of the Land Customs Act, 1924, unless the application for such permit is accompanied by a permit granted in this behalf by the Committee [1]* * * covering the quantity to be passed. XIX of 1924.

20. (1) The Committee [2]* * * may serve by post a notice upon the owner of any tea estate, or upon his agent or manager, requiring him to furnish, within such period not being less than thirty days as may be specified in the notice, such returns relating to the production, sale and export of tea produced on the estate as it may deem necessary to enable it to discharge its duties under this Chapter. Power of Committee to call for returns.

(2) Where any return required under sub-section (1) in respect of any tea estate is not furnished [3]* * * within the period specified in the notice, the Committee [2]* * * may refuse to allot a quota to that estate under section 14, or, where a quota has already been allotted, may cancel the unexhausted balance of that quota and refuse to issue any further export licences under section 16 against that quota.

21. (1) The Committee [4]* * * may charge and collect the following fees, namely — Fees.

(a) a licence fee for every export licence or special export licence issued by it, at such rates, not exceeding eight annas per thousand pounds of tea covered by the licence, as the [5][Central Government] may, by notification in the [6][Official Gazette], fix in this behalf; and

(b) copying fees for certified copies of accounts of quotas, at the rate of one rupee per copy

Provided that the owner of any tea estate to which a quota has been allotted under section 14 may make a consolidated payment of export licence fees at the rate fixed under clause (a) to cover the whole of the quota.

(2) The Committee [4]* * * shall apply the fees collected by [7][it] under this section to the meeting of expenses incurred by [7][it] in pursuance of the purposes of this Act and, with the previous sanction of the [5][Central Government], to the payment of a contribution towards the maintenance of any international committee established in furtherance of the said purposes in tea producing countries generally.

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[1] *See* foot note 4 on pre-page.

[2] Certain words ins by the Indian Tea Control (Amendment) Act, 1936 (17 of 1936), s. 12, were rep. by the A. O.

[3] [illegible]

[4] [illegible]

[5] [illegible]

[6] Subs by the A. O for "Gazette of India".

[7] Subs by the A O for the word "them", which had been subs. by Act 17 of 1936, s. 14, for the word "it".

(Chapter II.—Control over the Export of Tea. Chapter III.—Control over the extension of tea cultivation.)

Validation of certain acts already done.

22. (*1*) All licences for the export of tea overseas, all licences for the export of tea to the French and Portuguese Settlements bounded by India, and all quotas issued or fixed by the Licensing Committee constituted under the Tea Licensing Resolution shall be deemed to be licences, permits and quotas respectively, issued or fixed under this Act.

(*2*) All transfers of the right to obtain export licences from the said Licensing Committee shall be valid as if they had been made under this Act.

Power to make rules.

23. The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[3]—

(*a*) prescribing the manner in which the export quotas of tea estates shall be determined ;

(*b*) regulating the grant of permits for the export of tea to the French and Portuguese Settlements ,

(*c*) prescribing the form of export licences, special export licences and permits ; and

(*d*) generally, to carry out the purposes of this Chapter.

Bar of jurisdiction.

24. No quota fixed and no order granting or refusing to grant any licence or permit under this Chapter shall be called in question in any Court.

CHAPTER III.

CONTROL OVER THE EXTENSION OF TEA CULTIVATION.

Method of control of extension of tea cultivation.

25. So long as this Act remains in force, no one shall plant tea in any land which was not planted with tea on the 31st day of March, 1933, save in pursuance of a written permission granted by or on behalf of the Committee.

Explanation.—Land which had been planted with tea at any time during the period of two years before the 31st day of March, 1933, but, in accordance with agricultural practice on tea estates, was lying fallow on that date, shall be deemed to have been planted with tea on the 31st day of March, 1933.

Limits to the extension of tea cultivation.

26. (*1*) The total area of land in British India in respect of which the permissions referred to in section 25 may be granted shall not exceed 4,000 acres :

Provided that the [1][Committee] may deduct from the said 4,000 acres the whole or any part of the increase in the area planted with tea in British India which may have occurred between the 31st day of March, 1933, and the commencement of this Act.

(*2*) The total area of land in any province in respect of which such permissions may be granted shall be determined by the [1][Committee], and shall be,

[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " Gazette of India ".
[3] For such rules, *see* Gazette of India, 1933, Pt. I, p. 1162.

(*Chapter III —Control over the extension of tea cultivation.*)

as near as may be and subject to the above limit for the whole of British India, one-half of one *per centum* of the total area in the province which was planted with tea on the 31st day of March, 1933

(*3*) The [1][Committee] shall publish the total areas so allotted to the various provinces, by notification[2] in the Gazette of India, as soon as may be after the commencement of this Act

27. (*1*) Applications for permission to plant tea on any land for the first time shall be made to the Committee, not later than one month after the commencement of this Act, and shall contain a clear statement of all special circumstances justifying the application. **Grant of permission to plant tea.**

(*2*) Subject to the limits laid down in section 26, the Committee may grant or refuse the permission applied for, or may grant it in part only, or may call for further information from the applicant.

(*3*) No order by the Committee under sub-section (*2*) shall be called in question in any Court.

28. (*1*) Any applicant aggrieved by any order of the Committee under section 27 may appeal to the [3][Provincial Government] within sixty days from the date thereof, and the [3][Provincial Government] may on such appeal cancel, modify or suspend any order of the Committee under that section. **Appeal to Provincial Government.**

(*2*) The records of the Committee relating to proceedings under this Chapter shall be open to inspection at all reasonable times by any officer authorised in this behalf by the [3][Provincial Government]

29. (*1*) The Committee [4]* * * may serve by post a notice upon the owner of any tea estate, or upon his agent or manager, requiring him to furnish, within such period not being less than thirty days as may be specified in the notice, such returns relating to the cultivation of tea on the estate as it may deem necessary [5]* * *. **Power of Committee to call for returns and to inspect estates.**

(*2*) Any member of the Committee and any officer of the Committee authorised by it in this behalf [4]* * * may, at any reasonable time, enter upon and inspect the lands of any tea estate, and may require the owner of the estate, or his agent or manager, to produce for inspection any records of the estate in his control or custody relating to the cultivation of tea on the estate.

(*3*) Where any return required under sub-section (*1*) in respect of any tea estate is not furnished to the Committee within the period specified in the notice, the Committee may refuse to grant any permission under section 27 to plant tea on that estate.

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[1] Subs. by the A. O. for "G. G. in C."
[2] For such notification, *see* Gazette of India, 1933, Pt. I, p. 1166.
[3] Subs. by the A. O. for "L. G."
[4] Certain words ins. by the Indian Tea Control (Amendment) Act, 1936 (17 of 1936), s. 15, were rep. by the A. O.
[5] The words "to enable it to discharge its duties under this Chapter" were rep. by Act 17 of 1936, s. 36.

CHAPTER IV.

Penalties and Procedure.

Penalty for illicit export.

30. A breach of the provisions of sub-section *(1)* or sub-section *(2)* of section 19 shall be punishable as if it were an offence under Item No. 8 of section 167 of the Sea Customs Act, 1878, and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly. VIII of 18[illegible]

Penalty for making false return.

31. Any owner of a tea estate, or his agent or manager, who has furnished any return under sub-section *(1)* of section 20 or under sub-section *(1)* of section 29 containing any particular which is false and which he knew to be false or did not believe to be true, shall be punishable with fine which may extend to one thousand rupees.

Penalty for obstructing inspection of tea estate

32. Whoever obstructs any member or officer of the Committee [1]* * * while [2][such member or officer] is entering upon or inspecting the lands of any tea estate under sub-section *(2)* of section 29, and whoever, having control over or custody of any records of a tea estate relating to the cultivation of tea on that estate, refuses or fails to produce such records when required by a member or officer of the Committee [1]* * * under that sub-section, shall be punishable with fine which may extend to one thousand rupees

Penalty for illicit cultivation.

33. Whoever plants or causes to be planted tea in any land in contravention of section 25 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence.

Removal of tea planted without permission

34. Where any person has been convicted of an offence under section 33, the convicting Court may direct that the tea in respect of which the offence was committed shall be removed from the land within a prescribed time, and in the event of the order not being duly complied with, may cause the tea to be removed and recover the cost from the person convicted as if it were arrears of land revenue due on the tea estate on which the offence was committed.

Trial of offences under sections 31, 32 and 33.

35.—*(1)* No Magistrate other than a Magistrate of the first class shall take cognisance of an offence under section 31, section 32 or section 33, and such Magistrate may take cognisance of such an offence only upon complaint made by a person authorised by the Committee [3]* * * in this behalf, and with the previous sanction of [4][the Central Government, in the case of the offence of furnishing a false return under sub-section *(1)* of section 20, or the Provincial Government in any other case].

(2) The Committee [3]* * * shall be responsible for the conduct of all prosecutions of offences under section 31, section 32 and section 33.

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[1] Certain words ins by the Indian Tea Control (Amendment) Act, 1936 (17 of 1936), s. 16, were rep. by the A. O.

[2] [illegible] person" which had been subs.

[3] [illegible]

[4] [illegible] e A. O.

THE INDIAN MEDICAL COUNCIL ACT, 1933.

CONTENTS.

SECTIONS.

ACT NO. XXVII OF 1933.[1]

[23rd September, 1933.]

An Act to constitute a Medical Council in India.

WHEREAS it is expedient to constitute a Medical Council in India in order to establish a uniform minimum standard of higher qualifications in medicine for all provinces; It is hereby enacted as follows:—

1. *(1)* This Act may be called the Indian Medical Council Act, 1933. Short title, extent and commencement.

(2) It extends to the whole of British India.

[1] For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 150 and for Report of Select Committee, see Gazette of India, 1933, Pt. V, pp. 115 to 117.

(3) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

[4][(a) "British Indian University" means any university in British India established by an Indian law and having a medical faculty ;]

(b) "the Council" means the Medical Council of India constituted under this Act ;

(c) "medical institution" means any institution, within or without British India, which grants degrees, diplomas or licences in medicine ,

(d) "medicine" means modern scientific medicine and includes surgery and obstetrics, but does not include veterinary medicine and surgery ,

(e) "Provincial Medical Council" means a medical council constituted under an Act of [5][a Local or Provincial Legislature] to regulate the registration of medical practitioners ;

(f) "Provincial Medical Register" means a register maintained under an Act of [5][a Local or Provincial Legislature] to regulate the registration of medical practitioners ;

(g) "recognised medical qualification" means any of the medical qualifications included in the First and Second Schedules ; and

(h) "Regulation" means a Regulation made under section 18.

Constitution and composition of the Council. **3.** (1) The [2][Central Government] shall cause to be constituted a Council *consisting of the following members, namely :—*

(a) one member from each Governor's Province, to be nominated by [6][the Central Government] ;

(b) one member from each British Indian University, to be elected by the members of the Senate of the University (or, in the case of the University of Lucknow, the Court [7]* * *) from amongst the members of the medical faculty of the university [8]* * * ;

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d Council

the A. O.
of 1934),

s. 3, rep by the A. O.

(*c*) one member from each Province where a Provincial Medical Register is maintained, to be elected from amongst themselves by persons enrolled on the Register who possess recognised medical qualifications or medical qualifications granted by a British Indian University ; and

(*d*) [1][four members] to be nominated by the [2][Central Government].

(*2*) The President of the Council shall be elected by the members of the Council from amongst themselves :

Provided that for four years from the first constitution of the Council the President shall be a person nominated by the [2][Central Government], who shall hold office during the pleasure of the [2][Central Government] and, where he is not already a member, shall be a member of the Council in addition to the members prescribed in sub-section (*1*).

(*3*) No act done by the Council shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Council.

4. (*1*) An election under clause (*b*) or clause (*c*) of sub-section (*1*) of section 3 shall be conducted by the [3][Central Government], in such manner as it may think fit [4]* * *. Mode of election.

(*2*) Where any dispute arises regarding any election to the Council, it shall be referred to the [3][Central Government] whose decision shall be final.

5. (*1*) No person shall be eligible for nomination or election under clause (*a*) or (*b*) of sub-section (*1*) of section 3 unless he possesses a recognised medical qualification or a medical qualification granted by a British Indian University. Restrictions of nominations and elections.

(*2*) No person shall be eligible for nomination under clause (*a*) of sub-section (*1*) of section 3 unless he resides in the Province concerned, and, where a Provincial Medical Register is maintained in that Province, unless he is enrolled on that register.

(*3*) No person shall be eligible for election under clause (*b*) of sub-section (*1*) of section 3 unless he has had at least four years' experience as a Professor, Assistant Professor, Lecturer or Reader in Medical Colleges or Schools.

(*4*) No person may at the same time serve as a member in more than one capacity.

6. The Council so constituted shall be a body corporate by the name of the Medical Council of India, having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable, and to contract, and shall by the said name sue and be sued. Incorporation of the Council.

7. (*1*) An elected President shall hold office for a term not exceeding five years and not extending beyond the expiry of the term for which he has been nominated or elected to be a member of the Council. Term of Office.

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[1] [illegible]

[2] [illegible]

[3] [illegible]

[4] [illegible] issue in this behalf" rep. [illegible]

(*2*) A member, other than a nominated President, shall hold office for the term of five years from the date of his nomination or election or until his successor shall have been duly nominated or elected, whichever is longer.

(*3*) Where the said term of five years is about to expire in respect of any member, his successor may be nominated or elected at any time within three months before the said term expires, but shall not assume office until the said term has expired.

Meetings of the Council

8. (*1*) The Council shall hold its first meeting at such time and place as may be appointed by the [1][Central Government]; and thereafter the Council shall meet at least once in each year at such time and place as may be appointed by the Council

(*2*) Until otherwise provided by Regulations, ten members of the Council shall form a quorum, and all the acts of the Council shall be decided by a majority of the members present and voting.

Officers, Committees and servants of the Council

9. (*1*) The Council shall—

(*a*) elect from amongst its members a Vice-President;

(*b*) constitute from amongst its members an Executive Committee, and such other Committees for general or special purposes as the Council deems necessary to carry out the purposes of this Act;

(*c*) appoint a Secretary, who may also, if deemed expedient, act as Treasurer;

(*d*) appoint or nominate such other officers and servants as the Council deems necessary to carry out the purposes of this Act;

(*e*) require and take from the Secretary, or from any other officer or servant, such security for the due performance of his duties as the Council deems necessary; and

(*f*) with the previous sanction of the [1][Central Government], fix the remuneration and allowances to be paid to the President, Vice-President, members, officers and servants of the Council.

(*2*) Notwithstanding anything contained in clause (*c*) of sub-section (*1*), for the four years from the commencement of this Act, the Secretary of the Council shall be a person appointed by the [1][Central Government], who shall hold office during the pleasure of the [1][Central Government].

The Executive Committee.

10. (*1*) The Executive Committee shall consist of seven members, of whom five shall be elected by the Council from amongst its members.

(*2*) The President and Vice-President of the Council shall be members *ex-officio* of the Executive Committee, and shall be President and Vice-President, respectively, of that Committee.

(*3*) In addition to the powers and duties conferred and imposed upon it by this Act, the Executive Committee shall exercise and discharge such powers and duties as the Council may confer or impose upon it by any Regulations which may be made in this behalf.

[1] Subs. by the A. O. for "G. G. in C."

Recognition of medical qualifications granted by medical institutions in British India.

11. (*1*) The medical qualifications granted by medical institutions in British India which are included in the First Schedule shall be recognised medical qualifications for the purposes of this Act.

(*2*) Any medical institution in British India which grants a medical qualification not included in the First Schedule may apply to the [1][Central Government] to have such qualification recognised, and the [1][Central Government], after consulting the Council, may, by notification in the [2][Official Gazette], amend the First Schedule so as to include such qualification therein.

(*3*) Such notification may also direct that an entry shall be made in the last column of the First Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date.

(*4*) The Council shall, as soon as may be and without application being made, make all necessary arrangements for the inspection of the medical courses and examinations of the Universities of Patna [3]* * * and Andhra, and shall submit their recommendations to the [1][Central Government] regarding the inclusion in the First Schedule of the medical qualifications granted by these Universities

Non-Indian qualifications in Second Schedule to be recognised.

12. The medical qualifications granted by medical institutions outside British India which are included in the Second Schedule shall be recognised medical qualifications for the purposes of this Act, and shall be sufficient qualification for enrolment on any Provincial Medical Register.

Transitory arrangements for modifying the Second Schedule.

13. (*1*) At any time during the period of four years after the commencement of this Act, the Council may enter into negotiations with the authority in any State or country outside British India which is entrusted by the law of such State or country with the maintenance of a register of medical practitioners, for the settling of a scheme of reciprocity for the recognition of medical qualifications, and the course of such negotiations shall be reported to the [1][Central Government], along with the decisions of the Council to recognise or to refuse to recognise the medical qualifications proposed by such authority for recognition in British India.

(*2*) In so far as the decisions of the Council to recognise medical qualifications are accepted by the [1][Central Government], they shall be embodied in a resolution and published in the [2][Official Gazette], and such resolution shall specify or indicate with sufficient accuracy all medical qualifications finally approved for recognition in British India.

Provided that where any such resolution specifies or indicates a medical qualification which is not included in the Second Schedule, the [1][Central Government] may, by notification in the [2][Official Gazette], amend the Second Schedule so as to include such qualification therein, and such amendment may further direct that such qualification shall be deemed to be a recognised medical qualification for the purposes of this Act only when granted after a specified date.

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[1] Subs by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".
[3] The word "Rangoon" rep. by the A. O.

(*3*) Within one month before the expiry of the period of four years from the commencement of this Act, the [1][Central Government] shall frame a schedule to include all medical qualifications which have been specified or indicated by [2][it] in resolutions made under sub-section (*2*), and shall publish the said schedule in the [3][Official Gazette], and such schedule shall be substituted for the Second Schedule with effect from the expiry of the said period of four years, and shall then have force as if it had been enacted in this Act:

Provided that the [1][Central Government] shall include in the said schedule all medical qualifications included in the Second Schedule which were granted before the expiry of the said period of four years.

Permanent arrangements for modifying the Second Schedule.

14. (*1*) At any time after the expiry of the period of four years after the commencement of this Act, the Council may complete or may enter into negotiations with the authority in any State or country outside British India which by the law of such State or country is entrusted with the maintenance of a register of medical practitioners, for the settling of a scheme of reciprocity for the recognition of medical qualifications, and in pursuance of any such scheme the [1][Central Government] may, by notification in the [3][Official Gazette], amend the Second Schedule so as to include therein any medical qualification which the Council has decided should be recognised.

(*2*) Such notification may also direct that an entry shall be made in the last column of the Second Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date

(*3*) The [1][Central Government], after consultation with the Council, may, by notification in the [3][Official Gazette], amend the Second Schedule by directing that an entry be made therein in respect of any medical qualification, declaring that it shall be a recognised medical qualification only when granted before a specified date.

(*4*) Where the Council has refused to recognise any medical qualification which has been proposed for recognition by any such authority, that authority may apply to the [1][Central Government], and the [1][Central Government], after considering such application and after consulting the Council, may, by notification in the [3][Official Gazette], amend the Second Schedule so as to include such qualification therein, and the provisions of sub-section (*2*) shall apply to such notification.

Power to require information as to courses of study and examinations.

15. Every medical institution in British India which grants a recognised medical qualification shall furnish such information as the Council may, from time to time, require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualification is conferred, and generally as to the requisites for obtaining such qualification.

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[1] Subs. by the A. O for "G. G. in C."
[2] Subs by the A. O. for "him".
[3] Subs. by the A. O. for "Gazette of India".

16. (*1*) The Executive Committee shall appoint such number of medical inspectors as it may deem requisite to attend at any or all of the examinations held by medical institutions in British India for the purpose of granting recognised medical qualifications

Inspection of examinations.

(*2*) Inspectors appointed under this section shall not interfere with the conduct of any examination, but they shall report to the Executive Committee on the sufficiency of every examination which they attend and on any other matters in regard to which the Executive Committee may require them to report.

(*3*) The Executive Committee shall forward a copy of any such report to the medical institution concerned, and shall also forward a copy, with the remarks of such institution thereon, to the [1][Central Government]

17. (*1*) When, upon report by the Executive Committee, it appears to the Council that the courses of study and examination to be gone through in any medical institution in British India in order to obtain a recognised medical qualification or that the standards of proficiency required from candidates at any examination held for the purpose of granting such qualification are not such as to secure to persons holding such qualification the knowledge and skill requisite for the efficient practice of medicine, the Council shall make a representation to that effect to the [1][Central Government]

Withdrawal of recognition

(*2*) After considering such representation, the [1][Central Government] may send it to the [2][Provincial Government] of the Province in which the medical institution is situated, and the [2][Provincial Government] shall forward it, along with such remarks as it may choose to make, to the medical institution, with an intimation of the period within which the medical institution may submit its explanation to the [2][Provincial Government]

(*3*) *On the receipt of the explanation or, where no explanation is submitted* within the period fixed, then on the expiry of that period, the [2][Provincial Government] shall make its recommendations to the [1][Central Government].

(*4*) The [1][Central Government], after making such further inquiry, if any, as [3][it] may think fit, may, by notification in the [4][Official Gazette], direct that an entry shall be made in the First Schedule against the said medical qualification declaring that it shall be a recognised medical qualification only when granted before a specified date.

18. (*1*) The Council may, with the previous sanction of the [1][Central Government], make Regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such Regulations may provide for—

Power to make Regulations.

(*a*) the management of the property of the Council,

(*b*) the summoning and holding of meetings of the Council, the times and places where such meetings are to be held, the conduct

[1] Subs. by the A. O. for "G. G in C."
[2] Subs. by the A. O. for "L. G."
[3] Subs. by the A. O for "he".
[4] Subs. by the A. O for "Gazette of India".

(*Schedule II.*)

[1][THE SECOND SCHEDULE.

(*See* section 12.)

RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS OUTSIDE BRITISH INDIA.

Country	Qualifications.
UNITED KINGDOM . .	Registrable qualifications admitting primarily to the Medical Register granted by licensing bodies in the [illegible]

Other countries.	Registrable qualifications .		Abbreviations.
	Title	Nature of qualifications as stated on diplomas.	
AUSTRALIA—			
New South Wales—			
University of Sydney . .	M B., M D.; Ch M., B.S.	Medicine and Surgery.	U. Sydney.
South Australia—			
University of Adelaide* .	M B., B S ; M. D., M.S.	Do.	U. Adelaide.
Victoria—			
University of Melbourne† .	M.B ; M.D., B S., M.S.	Do.	U. Melbourne.
BURMA—			
University of Rangoon .	M.B., B S. . .	Do.	U. Rangoon.
CANADA—			
Alberta—			
College of Physicians and Surgeons of the Province of Alberta †	Member . .	Do	C. P. and S. Alta.
University of Alberta† . .	M D. . . .	Do	U. Alberta.
Manitoba—			
College of Physicians and Surgeons of the Province of Manitoba †	Member . .	Medicine and Surgery.	C. P & S Man.
University of Manitoba† .	M D ; M.D , C M.	Do.	U. Man.

* The qualification must be included in Table (I) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.

† When granted on or before the 31st October, 1937.

[1] Subs for the original Sch. II, with effect from the 1st November, 1937, by notification No. F. 43-18/37, dated the 13th October, 1937, *see* Gazette of India, 1937, Pt. I, p. 1713.

Inspection of examinations.

16. (*1*) The Executive Committee shall appoint such number of medical inspectors as it may deem requisite to attend at any or all of the examinations held by medical institutions in British India for the purpose of granting recognised medical qualifications

(*2*) Inspectors appointed under this section shall not interfere with the conduct of any examination, but they shall report to the Executive Committee on the sufficiency of every examination which they attend and on any other matters in regard to which the Executive Committee may require them to report.

(*3*) The Executive Committee shall forward a copy of any such report to the medical institution concerned, and shall also forward a copy, with the remarks of such institution thereon, to the [1][Central Government].

Withdrawal of recognition

17. (*1*) When, upon report by the Executive Committee, it appears to the Council that the courses of study and examination to be gone through in any medical institution in British India in order to obtain a recognised medical qualification or that the standards of proficiency required from candidates at any examination held for the purpose of granting such qualification are not such as to secure to persons holding such qualification the knowledge and skill requisite for the efficient practice of medicine, the Council shall make a representation to that effect to the [1][Central Government]

(*2*) After considering such representation, the [1][Central Government] may send it to the [2][Provincial Government] of the Province in which the medical institution is situated, and the [2][Provincial Government] shall forward it, along with such remarks as it may choose to make, to the medical institution, with an intimation of the period within which the medical institution may submit its explanation to the [2][Provincial Government]

(*3*) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of that period, the [2][Provincial Government] shall make its recommendations to the [1][Central Government].

(*4*) The [1][Central Government], after making such further inquiry, if any, as [3][it] may think fit, may, by notification in the [4][Official Gazette], direct that an entry shall be made in the First Schedule against the said medical qualification declaring that it shall be a recognised medical qualification only when granted before a specified date

Power to make Regulations.

18. (*1*) The Council may, with the previous sanction of the [1][Central Government], make Regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such Regulations may provide for—

(*a*) the management of the property of the Council ;

(*b*) the summoning and holding of meetings of the Council, the times and places where such meetings are to be held, the conduct

[1] Subs. by the A. O for "G G. in C."
[2] Subs. by the A. O for "L. G."
[3] Subs. by the A. O. for "he".
[4] Subs by the A O for "Gazette of India".

(3) Within one month before the expiry of the period of four years from the commencement of this Act, the [1][Central Government] shall frame a schedule to include all medical qualifications which have been specified or indicated by [2][it] in resolutions made under sub-section (2), and shall publish the said schedule in the [3][Official Gazette], and such schedule shall be substituted for the Second Schedule with effect from the expiry of the said period of four years, and shall then have force as if it had been enacted in this Act:

Provided that the [1][Central Government] shall include in the said schedule all medical qualifications included in the Second Schedule which were granted before the expiry of the said period of four years.

Permanent arrangements for modifying the Second Schedule.

14. (1) At any time after the expiry of the period of four years after the commencement of this Act, the Council may complete or may enter into negotiations with the authority in any State or country outside British India which by the law of such State or country is entrusted with the maintenance of a register of medical practitioners, for the settling of a scheme of reciprocity for the recognition of medical qualifications, and in pursuance of any such scheme the [1][Central Government] may, by notification in the [3][Official Gazette], amend the Second Schedule so as to include therein any medical qualification which the Council has decided should be recognised.

(2) Such notification may also direct that an entry shall be made in the last column of the Second Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date

(3) The [1][Central Government], after consultation with the Council, may, by notification in the [3][Official Gazette], amend the Second Schedule by directing that an entry be made therein in respect of any medical qualification, declaring that it shall be a recognised medical qualification only when granted before a specified date.

(4) Where the Council has refused to recognise any medical qualification which has been proposed for recognition by any such authority, that authority may apply to the [1][Central Government], and the [1][Central Government], after considering such application and after consulting the Council, may, by notification in the [3][Official Gazette], amend the Second Schedule so as to include such qualification therein, and the provisions of sub-section (2) shall apply to such notification.

Power to require information as to courses of study and examinations.

15. Every medical institution in British India which grants a recognised medical qualification shall furnish such information as the Council may, from time to time, require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualification is conferred, and generally as to the requisites for obtaining such qualification.

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[1] Subs. by the A. O. for "G. G in C."
[2] Subs. by the A. O for "him".
[3] Subs. by the A. O. for "Gazette of India".

16. (*1*) The Executive Committee shall appoint such number of medical inspectors as it may deem requisite to attend at any or all of the examinations held by medical institutions in British India for the purpose of granting recognised medical qualifications. Inspection of examinations.

(*2*) Inspectors appointed under this section shall not interfere with the conduct of any examination, but they shall report to the Executive Committee on the sufficiency of every examination which they attend and on any other matters in regard to which the Executive Committee may require them to report.

(*3*) The Executive Committee shall forward a copy of any such report to the medical institution concerned, and shall also forward a copy, with the remarks of such institution thereon, to the [1][Central Government].

17. (*1*) When, upon report by the Executive Committee, it appears to the Council that the courses of study and examination to be gone through in any medical institution in British India in order to obtain a recognised medical qualification or that the standards of proficiency required from candidates at any examination held for the purpose of granting such qualification are not such as to secure to persons holding such qualification the knowledge and skill requisite for the efficient practice of medicine, the Council shall make a representation to that effect to the [1][Central Government]. Withdrawal of recognition.

(*2*) After considering such representation, the [1][Central Government] may send it to the [2][Provincial Government] of the Province in which the medical institution is situated, and the [2][Provincial Government] shall forward it, along with such remarks as it may choose to make, to the medical institution, with an intimation of the period within which the medical institution may submit its explanation to the [2][Provincial Government].

(*3*) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of that period, the [2][Provincial Government] shall make its recommendations to the [1][Central Government].

(*4*) The [1][*Central Government*], *after making such further inquiry, if* any, as [3][it] may think fit, may, by notification in the [4][Official Gazette], direct that an entry shall be made in the First Schedule against the said medical qualification declaring that it shall be a recognised medical qualification only when granted before a specified date.

18. (*1*) The Council may, with the previous sanction of the [1][Central Government], make Regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such Regulations may provide for— Power to make Regulations.

(*a*) the management of the property of the Council;

(*b*) the summoning and holding of meetings of the Council, the times and places where such meetings are to be held, the conduct

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "L. G."
[3] Subs. by the A. O. for "he".
[4] Subs. by the A. O. for "Gazette of India".

of business thereat and the number of members necessary to constitute a quorum ;

(*c*) the resignation of members of the Council and the filling of casual vacancies ;

(*d*) the powers and duties of the President and Vice-President ;

(*e*) the mode of appointment of the Executive Committee and other Committees, the summoning and holding of meetings, and the conduct of business of such Committees ;

(*f*) the tenure of office, and the powers and duties of the Secretary and other officers and servants of the Council ;

(*g*) the appointment, powers, duties and procedure of medical inspectors ; and

(*h*) any matter for which under this Act provision may be made by Regulations.

(*2*) Until the first Council is constituted under this Act, any Regulations which may be made under sub-section (*1*) may be made by the [1][Central Government] ; and any Regulation so made may be altered or rescinded by the Council in exercise of its powers under sub-section (*1*).

Information to be furnished by Council, and publication thereof

19. (*1*) The Council shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the [1][Central Government] as [2][it] may require.

(*2*) The [1][Central Government] may publish, in such manner as [2][it] may think fit, any report, copy, abstract or other information furnished to [3][it] under this section or under section 16.

Commissions of Inquiry.

20. (*1*) Whenever it is made to appear to the [1][Central Government] that the Council is not complying with any of the provisions of this Act, the [1][Central Government] may refer the particulars of the complaint to a Commission of Inquiry consisting of three persons, two of whom shall be appointed by the [1][Central Government], one being a Judge of a High Court established by Letters Patent of the Crown, and one by the Council ; and such Commission shall proceed to inquire in a summary manner and to report to the [1][Central Government] as to the truth of the matters charged in the complaint, and in case of any charge of default or of improper action being found by the Commission to have been established, the Commission shall recommend the remedies, if any, which are in its opinion necessary.

(*2*) The [1][Central Government] may require the Council to adopt the remedies so recommended within such time as, having regard to the report of the Commission, [2][it] may think fit ; and if the Council fails to comply with any such requirement, the [1][Central Government] may amend the Regulations of the Council, or make such provision or order or take such other steps as may seem necessary to give effect to the recommendations of the Commission.

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[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " he ".
[3] Subs. by the A. O. for " him ".

(Schedule I.)

(3) A Commission of Inquiry shall have power to administer oaths, to enforce the attendance of witnesses and the production of documents, and shall have all such other necessary powers for the purpose of any inquiry conducted by it as are exercised by a Civil Court under the Code of Civil Procedure, 1908. V of 1908.

THE FIRST SCHEDULE.

(*See* section 11.)

RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS IN BRITISH INDIA.

Medical Institution	Recognised medical qualification	Abbreviation for registration
University of Allahabad	Bachelor of Medicine and Bachelor of Surgery	M B , B S , All.
		L M S , Bom.
		M B , B S , Bom.
		M D , Bom
	Master of Surgery	M S , Bom.
University of Calcutta.	Licentiate in Medicine and Surgery	L M S , Cal
	Bachelor of Medicine	M B , Cal
	Doctor of Medicine	M D , Cal.
	Master of Surgery	M S , Cal
	Master of Obstetrics	M O , Cal
University of Lucknow	Bachelor of Medicine and Bachelor of Surgery	M B , B S , Lucknow.
	[1][Doctor of Medicine	M D , Lucknow
		M S , Lucknow]
University of Madras .		L M S , Mad
		M B , C M , Mad
		M B , B S , Mad
		M D , Mad
		M S , Mad.]
Punjab University .		L M S , Pun
		M B , Pun
		M B , B S , Pun]
	gery	
	Doctor of Medicine	M D , Pun
	Master of Surgery	M.S , Pun
[4][University of Patna	Bachelor of Medicine and Bachelor of Surgery	M B , B S., Patna.]
	[5][Doctor of Medicine	M D., Patna.
	Master of Surgery	M S , Patna.]
* * * *	* * * * * * * *	* * * *

[1] Ins. by notification No F 43 16/34, dated the 23rd August, 1934, *see* Gazette of India, 1934, Pt. I, p. 973.

[2] Ins. by notification No F. 43-25/37, dated the 11th November, 1937, *see* Gazette of India, 1937, Pt. I, p. 1813

[3] Ins. by notification No. F. 43-3/36, dated the 31st March, 1936, *see* Gazette of India, 1936, Pt. I, p. 428.

[4] Ins by notification No. F. 43-10/35, dated the 11th May, 1935, *see* Gazette of India, 1935, Pt. I, p. 656.

[5] Ins. by notification No. F. 43-11/38, dated the 5th May, 1938, *see* Gazette of India, 1938, Pt. I, p. 934.

[6] The entry relating to the M.B., B.S. degree of the University of Rangoon rep by notification No. F. 43-21/37, dated the 7th October, 1937, *see* Gazette of India, 1937, Pt. I, p. 1607.

(Schedule II.)

[1][THE SECOND SCHEDULE.

(See section 12.)

RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS OUTSIDE BRITISH INDIA.

Country.	Qualifications.
UNITED KINGDOM . .	Registrable qualifications admitting primarily to the Medical Register granted by licensing bodies in the United Kingdom, as shown in Table (I) set out in the ..

Other countries.	Registrable qualifications.		Abbreviations.
	Title.	Nature of qualifications as stated on diplomas	
AUSTRALIA—			
New South Wales—			
University of Sydney . .	M B , M D ; Ch M , B S	Medicine and Surgery.	U. Sydney.
South Australia—			
University of Adelaide* .	M.B., B S. ; M. D. ; M.S	Do.	U. Adelaide.
Victoria—			
University of Melbourne† .	M B ; M D , B S. ; M S.	Do.	U. Melbourne.
BURMA—			
University of Rangoon . .	M.B , B S. . .	Do.	U. Rangoon.
CANADA—			
Alberta—			
College of Physicians and Surgeons of the Province of Alberta †	Member . .	Do.	C P. and S. Alta.
University of Alberta† . .	M.D. . . .	Do	U. Alberta.
Manitoba—			
College of Physicians and Surgeons of the Province of Manitoba.†	Member . .	Medicine and Surgery.	C. P. & S Man.
University of Manitoba† .	M.D. ; M.D., C.M.	Do.	U. Man.

* The qualification must be included in Table (I) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.

† When granted on or before the 31st October, 1937.

[1] Subs. for the original Sch. II, with effect from the 1st November, 1937, by notification No. F. 43-18/37, dated the 13th October, 1937, *see* Gazette of India, 1937, Pt. I, p. 1713.

(Schedule II.)

THE SECOND SCHEDULE—*contd.*

Other countries	Registrable qualifications		Abbreviations.
	Title.	Nature of qualifications as stated on diplomas.	
CANADA—*contd* *North-West Territories*— College of Physicians and Surgeons of the Province of North-West Territories* (When held in conjunction with Licence of the College of Physicians and Surgeons of the Province of Saskatchewan or the Province of Alberta)	Member . .	Medicine and Surgery.	C. P & S. N. W Terr
Nova Scotia— Nova Scotia Provincial Medical Board†.	L M S. . .	Do.	N. Scotia P M. Bd
Dalhousie University† . .	M D , C M. .	Do.	Dalhousie U.
Prince Edward Island— Prince Edward Island Medical Council*	L M S . .	Do	M Co P. E. I.
CEYLON— Ceylon Medical College† .	L M S. . .	Do	Ceylon M Coll.
HONG KONG— University of Hong Kong† .	M B., B S , M D , M S	Do	U. Hong Kong.
ITALY— All Royal Italian Universities‡.	M D	Do	.
JAPAN— All Imperial Universities‡ .	M B (Igakushi), M.D (Igaku Hakushi)	Do.	..
[illegible]	[illegible] akushi) .	Do	.
MALTA— [1][Royal] University of Malta	M D. . .	Do	U. Malta.
NEWFOUNDLAND— Newfoundland Medical Board*	L M S . .	Do	Nfld. M. Bd

*When granted on or before the 31st October, 1937.

†The qualification must be included in Table (I) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.

‡The qualification must be included in Table (J) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.

[1] Ins. by notification No. F. 43-27/38, dated the 20th January, 1938, see Gazette of India, 1938, Pt. I, p. 75.

THE SECOND SCHEDULE—*concld.*

Other countries.	Registrable qualifications.		Abbreviations.
	Title.	Nature of qualifications as stated on diplomas.	
NEW ZEALAND— University of New Zealand	M.B., Ch B ; Ch.M., M.D	Medicine and Surgery.	U. N. Zealand.
UNION OF SOUTH AFRICA— University of South Africa*	M B, Ch B.	Do.	U. S. Africa.
University of Cape Town†	M B, Ch.B ; M D., Ch M.	Do.	U. Cape Town.
University of the Witwatersrand, Johannesburg†.	M.B, Ch B.; M D., Ch.M	Do.	U. Witwatersrand.
STRAITS SETTLEMENTS AND FEDERATED MALAY STATES— The King Edward VII College of Medicine, Singapore†	L.M.S	Do.	Singapore Med. Coll.

*When granted on or before the 31st October, 1937.
†The qualification must be included in Table (I) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.]

THE RESERVE BANK OF INDIA ACT, 1934.

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PRELIMINARY.

SECTIONS.

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CENTRAL BANKING FUNCTIONS.

THE SECOND SCHEDULE—*concld.*

Other countries	Registrable qualifications.		Abbreviations.
	Title.	Nature of qualifications as stated on diplomas	
NEW ZEALAND— University of New Zealand .	M.B., Ch.B., Ch M., M D.	Medicine and Surgery.	U. N. Zealand.
UNION OF SOUTH AFRICA— University of South Africa*	M.B., Ch.B.	Do.	U. S. Africa.
University of Cape Town† .	M.B., Ch.B ; M D, Ch.M	Do.	U. Cape Town.
University of the Witwatersrand, Johannesburg†	M.B., Ch.B.; M D, Ch.M	Do.	U. Witwatersrand.
STRAITS SETTLEMENTS AND FEDERATED MALAY STATES— The King Edward VII College of Medicine, Singapore†.	L M S. . .	Do.	Singapore Med. Coll.

*When granted on or before the 31st October, 1937.
†The qualification must be included in Table (I) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.]

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THE FIFTH SCHEDULE.—[*Repealed.*]

ACT NO. II OF 1934.[1]

[*6th March, 1934.*]

An Act to constitute a Reserve Bank of India.

WHEREAS it is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in British India and generally to operate the currency and credit system of the country to its advantage ;

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1 For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 160, and [illegible] ter the separa- [illegible] Arrangements) [illegible]

(*Chapter I.—Preliminary.*)

AND WHEREAS in the present disorganisation of the monetary systems of the world it is not possible to determine what will be suitable as a permanent basis for the Indian monetary system;

BUT WHEREAS it is expedient to make temporary provision on the basis of the existing monetary system, and to leave the question of the monetary standard best suited to India to be considered when the international monetary position has become sufficiently clear and stable to make it possible to frame permanent measures;

It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Reserve Bank of India Act, 1934. **Short title, extent and commencement.**

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date or dates[1] as the [2][Central Government] may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— **Definitions.**

(*a*) "the Bank" means the Reserve Bank of India constituted by this Act;

(*b*) "the Central Board" means the Central Board of Directors of the Bank;

(*c*) "provincial co-operative bank" means the principal society in a Province which is registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in British India relating to co-operative societies and the primary object of which is the financing of the other societies in the Province which are or are deemed to be so registered

II of 1912.

Provided that in addition to such principal society in a Province or where there is no such principal society in a Province the [3][Provincial Government] may declare any central co-operative society in that Province to be a provincial co-operative bank within the meaning of this definition;

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[1] Ss. 2 to 19, 47, 48, 50 to 52, 55 to 58 and 61 were brought into force on 1st January, 1935; *see* Gazette of India, 1934, Pt. I, p. 1369; and the other sections on 1st April, 1935, *see ibid*, 1935, Pt. I, p. 358

[2] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C." The A O does not apply to this Act: *see* para. 12 (*c*) of the A. O.

[3] Subs by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "L. G."

(*d*) "rupee coin" means silver rupees which are legal tender [1][in British India] under the provisions of the Indian Coinage Act, 1906; [2]* III of 1906.

(*e*) "scheduled bank" means a bank included in the Second Schedule;

[1][(*f*) "Burma scheduled bank"[3], "Burma co-operative bank"[4] and "Burma notes"[5] have the same meanings as in Part II of the India and Burma (Burma Monetary Arrangements) Order, 1937[6];

(*g*) "bank notes" and "currency notes of the Government of India" do not, save as is expressly provided, include any notes which are Burma notes,

(*h*) "local authority" includes a local authority in Burma;

(*i*) "Burma" has the same meaning[7] as in the Government of India Act, 1935; 26 Geo. 5, c. 2.

(*j*) "Burman subject of His Majesty" includes all British subjects domiciled in Burma; and

(*k*) "references to the Government of Burma" include references to the Governor of Burma in his dealings with the Federal Fund of the Federated Shan States.]

CHAPTER II.

Incorporation, Share Capital, Management and Business.

Establishment and incorporation of Reserve Bank.

3. (*1*) A bank to be called the Reserve Bank of India shall be constituted for the purposes of taking over the management of the currency from the [8][Central Government] and of carrying on the business of banking in accordance with the provisions of this Act.

(*2*) The Bank shall be a body corporate by the name of the Reserve Bank of India, having perpetual succession and a common seal, and shall by the said name sue and be sued.

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[1] Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

[2] The word "and" rep, *ibid.*

[illegible]

Council in exercise of the powers conferred by [illegible] eo. 5, c. 2), and by ss. 137 and 149 of the Govt.

[illegible] Monetary Arrangements) Order, 1937, Pt. III,

(Chapter II.—Incorporation, Share Capital, Management and Business.)

Share capital, share registers and shareholders.

4. (*1*) The original share capital of the Bank shall be five crores of rupees divided into shares of one hundred rupees each, which shall be fully paid up.

(*2*) Separate registers of shareholders shall be maintained at Bombay, Calcutta, Delhi, Madras and Rangoon, and a separate issue of shares shall be made in each of the areas served by those registers, as defined in the First Schedule, and shares shall be transferable from one register to another.

(*3*) A shareholder shall be qualified to be registered as such in any area in which he is ordinarily resident or has his principal place of business in India [1][or Burma], but no person shall be registered as a shareholder in more than one register ; and no person who is not—

(*a*) domiciled in India [1][or Burma] and either [2][an Indian or Burman subject of His Majesty] or a subject of a State in India [1][or Burma], or

(*b*) a British subject ordinarily resident in India [1][or Burma] and domiciled in the United Kingdom or in any part of His Majesty's Dominions the government of which does not discriminate in any way against [3][Indian or Burman subjects of His Majesty], or

VII of 1913. II of 1912.

(*c*) a company registered under the Indian Companies Act, 1913, or a society registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in British India relating to co-operative societies or a scheduled bank, or a corporation or company incorporated by or under an Act of Parliament or any law for the time being in force in any part of His Majesty's Dominions the government of which does not discriminate in any way against [3][Indian or Burman subjects of His Majesty], and having a branch in British India [1][or in Burma], [1][or

(*d*) a company or co-operative society registered in Burma under any law relating to companies or co-operative societies, or a Burma Scheduled bank,]

shall be registered as a shareholder or be entitled to payment of any dividend on any share, and no person, who, having been duly registered as a shareholder, ceases to be qualified to be so registered, shall be able to exercise any of the rights of a shareholder otherwise than for the purpose of the sale of his shares.

(*4*) The [4][Central Government] shall, by notification in the Gazette of India, specify the parts of His Majesty's Dominions which shall be deemed

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[1] Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, ...

[2] ", *ibid.*

[3] *ibid.*

for the purposes of clauses (*b*) and (*c*) of sub-section (*3*) to be the parts of His Majesty's Dominions in which no discrimination against Indian [1][or Burman] subjects of His Majesty exists.

(*5*) The nominal value of the shares originally assigned to the various registers shall be as follows, namely :—

(*a*) to the Bombay register—one hundred and forty lakhs of rupees ;
(*b*) to the Calcutta register—one hundred and forty-five lakhs of rupees ,
(*c*) to the Delhi register—one hundred and fifteen lakhs of rupees ;
(*d*) to the Madras register—seventy lakhs of rupees ;
(*e*) to the Rangoon register—thirty lakhs of rupees :

Provided that if at the first allotment the total nominal value of the shares on the Delhi register for which applications are received is less than one hundred and fifteen lakhs of rupees, the Central Board shall, before proceeding to any allotment, transfer any shares not applied for up to a maximum nominal value of thirty-five lakhs of rupees from that register in two equal portions to the Bombay and the Calcutta register.

A Committee consisting of two elected members of the Assembly and one elected member of the Council of State to be elected by non-official members of the respective Houses shall be associated with the Central Board for the purpose of making public issue of shares and looking after the first allotment of shares.

(*6*) In allotting the shares assigned to a register, the Central Board shall, in the first instance, allot five shares to each qualified applicant who has applied for five or more shares ; and, if the number of such applicants is greater than one-fifth of the total number of shares assigned to the register, shall determine by lot the applicants to whom the shares shall be allotted.

(*7*) If the number of such applicants is less than one-fifth of the number of shares assigned to the register, the Central Board shall allot the remaining shares firstly, up to the limit of one-half of such remaining shares, to those applicants who have applied for less than five shares, and thereafter as to the balance to the various applicants in such manner as it may deem fair and equitable, having regard to the desirability of distributing the shares and the voting rights attached to them as widely as possible.

(*8*) Notwithstanding anything contained in sub-sections (*6*) and (*7*), the Central Board shall reserve for and allot to Government shares of the nominal value of two lakhs and twenty thousand rupees to be held by Government for disposal at par to Directors, seeking to obtain the minimum share qualification required under sub-section (*2*) of section 11.

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[1] Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

(*9*) If, after all applications have been met in accordance with the provisions of sub-sections (*6*), (*7*) and (*8*), any shares remain unallotted, they shall, notwithstanding anything contained in this section, be allotted to and taken up by Government, and shall be sold by the [1][Central Government] as soon as may be, at not less than par, to residents of the areas served by the register concerned.

(*10*) The [1][Central Government] shall have no right to exercise any vote under this Act by reason of any shares allotted to [2][Government] under sub-section (*8*) or under sub-section (*9*).

(*11*) A Director shall not dispose of any shares obtained from Government under the provisions of sub-section (*8*) otherwise than by re-sale to Government at par, and Government shall be entitled to re-purchase at par all such shares held by any Director on his ceasing from any cause to hold office as Director.

Increase and reduction of share capital.

5. (*1*) The share capital of the Bank may be increased or reduced on the recommendation of the Central Board, with the previous sanction of the [1][Central Government] and with the approval of the Central Legislature, to such extent and in such manner as may be determined by the Bank in general meeting.

(*2*) The additional shares so created shall be of the nominal value of one hundred rupees each and shall be assigned to the various registers in the same proportions as the shares constituting the original share capital

(*3*) Such additional shares shall be fully paid up, and the price at which they may be issued shall be fixed by the Central Board with the previous sanction of the [1][Central Government]

(*4*) The provisions of section 4 relating to the manner of allotment of the shares constituting the original share capital shall apply to the allotment of such additional shares, and existing shareholders shall not enjoy any preferential right to the allotment of such additional shares.

Offices, branches and agencies.

6. The Bank shall, as soon as may be, establish offices in Bombay, Calcutta, Delhi, Madras and Rangoon and a branch in London, and may establish branches or agencies in any other place in India [3][or Burma] or, with the previous sanction of the [1][Central Government], elsewhere

Management.

7. The general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank and are not by this Act expressly directed or required to be done by the Bank in general meeting.

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[1] Subs by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt III, para. 1 and Sch III, for "G G. in C"

[2] Subs for "him", *ibid*

[3] Ins., *ibid*

(*Chapter II.—Incorporation, Share Capital, Management and Business.*)

Composition of the Central Board, and term of office of Directors.

8. (*1*) The Central Board shall consist of the following Directors, namely :—

(*a*) a Governor and two Deputy Governors, to be appointed by the [1][Central Government] after consideration of the recommendations made by the Board in that behalf;

(*b*) four Directors to be nominated by the [1][Central Government];

(*c*) eight Directors to be elected on behalf of the shareholders on the various registers, in the manner provided in section 9 and in the following numbers, namely :—

(i) for the Bombay register—two Directors;

(ii) for the Calcutta register—two Directors;

(iii) for the Delhi register—two Directors;

(iv) for the Madras register—one Director;

(v) for the Rangoon register—one Director; and

(*d*) one government official to be nominated by the [1][Central Government].

(*2*) The Governor and Deputy Governors shall devote their whole time to the affairs of the Bank, and shall receive such salaries and allowances as may be determined by the Central Board, with the approval of the [1][Central Government]

(*3*) A Deputy Governor and the Director nominated under clause (*d*) of sub-section (*1*) may attend any meeting of the Central Board and take part in its deliberations but shall not be entitled to vote :

Provided that when the Governor is absent a Deputy Governor authorized by him in this behalf in writing may vote for him.

(*4*) The Governor and a Deputy Governor shall hold office for such term not exceeding five years as the [1][Central Government] may fix when appointing them, and shall be eligible for re-appointment.

A Director nominated under clause (*b*) or elected under clause (*c*) of sub-section (*1*) shall hold office for five years, or thereafter until his successor shall have been duly nominated or elected, and, subject to the provisions of section 10, shall be eligible for re-nomination or re-election.

A Director nominated under clause (*d*) of sub-section (*1*) shall hold office during the pleasure of the [1][Central Government].

(*5*) No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

Local Boards, their constitution and functions.

9. (*1*) A Local Board shall be constituted for each of the five areas specified in the First Schedule, and shall consist of—

(*a*) five members elected from amongst themselves by the shareholders who are registered on the register for that area and are qualified to vote, and

[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

(Chapter II.—Incorporation, Share Capital, Management and Business.)

(*b*) not more than three members nominated by the Central Board from amongst the shareholders registered on the register for that area, who may be nominated at any time:

Provided that the Central Board shall in exercising this power of nomination aim at securing the representation of territorial or economic interests not already represented, and in particular the representation of agricultural interests and the interests of co-operative banks.

(*2*) At an election of members of a Local Board for any area, any shareholder who has been registered on the register for that area, for a period of not less than six months ending with the date of the election, as holding five shares shall have one vote, and each shareholder so registered as having more than five shares shall have one vote for each five shares, but subject to a maximum of ten votes, and such votes may be exercised by proxy appointed on each occasion for that purpose, such proxy being himself a shareholder entitled to vote at the election and not being an employee of the Bank.

(*3*) The members of a Local Board shall hold office until they vacate it under sub-section (*6*) and, subject to the provisions of section 10, shall be eligible for re-election or re-nomination, as the case may be.

(*4*) At any time within three months of the day on which the Directors representing the shareholders on any register are due to retire under the provisions of this Act, the Central Board shall direct an election to be held of members of the Local Board concerned, and shall specify a date from which the registration of transfers from and to the register shall be suspended until the election has taken place.

(*5*) On the issue of such direction the Local Board shall give notice of the date of the election and shall publish a list of shareholders holding five or more shares, with the dates on which their shares were registered, and with their registered addresses, and such list shall be available for purchase not less than three weeks before the date fixed for the election.

(*6*) The names of the persons elected shall be notified to the Central Board which shall thereupon proceed to make any nominations permitted by clause (*b*) of sub-section (*1*); it may then decide to make, and shall fix the date on which the outgoing members of the Local Board shall vacate office, and the incoming members shall be deemed to have assumed office on that date.

(*7*) The elected members of a Local Board shall, as soon as may be after they have been elected, elect from amongst themselves one or two persons, as the case may be, to be Directors representing the shareholders on the register for the area for which the Board is constituted.

(*8*) A Local Board shall advise the Central Board on such matters as may be generally or specifically referred to it and shall perform such duties as the Board may, by regulations, delegate to it.

(Chapter II.—Incorporation, Share Capital, Management and Business.)

Disqualifications of Directors and members of Local Boards.

10. *(1)* No person may be a Director or a member of a Local Board who—

(*a*) is a salaried government official or a salaried official of a State in India [1][or Burma], or

(*b*) is, or at any time has been, adjudicated an insolvent, or has suspended payment or has compounded with his creditors, or

(*c*) is found lunatic or becomes of unsound mind, or

(*d*) is an officer or employee of any bank, or

(*e*) is a Director of any bank, other than a bank which is a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in British India [1][or Burma] relating to co-operative societies. II of 1912

(2) No two persons who are partners of the same mercantile firm, or are Directors of the same private company, or one of whom is the general agent of or holds a power of procuration from the other, or from a mercantile firm of which the other is a partner, may be Directors or members of the same Local Board at the same time.

(3) Nothing in clause (*a*), clause (*d*) or clause (*e*) of sub-section *(1)* shall apply to the Governor, or to a Deputy Governor or to the Director nominated under clause (*d*) of sub-section *(1)* of section 8.

Removal from and vacation of office.

11. *(1)* The [2][Central Government] may remove from office the Governor, or a Deputy Governor or any nominated or elected Director :

Provided that in the case of a Director nominated or elected under clause (*b*) or clause (*c*) of sub-section *(1)* of section 8 this power shall be exercised only on a resolution passed by the Central Board in that behalf by a majority consisting of not less than nine Directors.

(2) A Director nominated or elected under clause (*b*) or clause (*c*) of sub-section *(1)* of section 8, and any member of a Local Board shall cease to hold office if, at any time after six months from the date of his nomination or election, he is not registered as a holder of unencumbered shares of the Bank of a nominal value of not less than five thousand rupees, or if he ceases to hold unencumbered shares of that value, and any such Director shall cease to hold office if without leave from the [2][Central Government] he absents himself from three consecutive meetings of the Central Board convened under sub-section *(1)* of section 13.

(3) The [2][Central Government] shall remove from office any Director, and the Central Board shall remove from office any member of a Local Board, if such Director or member becomes subject to any of the disqualifications specified in sub-section *(1)* or sub-section *(2)* of section 10.

[1] Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III para. 1 and Sch III.

[2] Subs. for "G. G. in C.", *ibid.*

(Chapter II.—Incorporation, Share Capital, Management and Business.)

(*4*) A Director or member of a Local Board removed or ceasing to hold office under the foregoing sub-sections shall not be eligible for re-appointment either as Director or as member of a Local Board until the expiry of the term for which his appointment was made.

(*5*) The appointment, nomination or election as Director or member of a Local Board of any person who is a member of [1][the Federal Legislature, the Indian Legislature, a Provincial Legislature, the Coorg Legislative Council or the Burma Legislature] shall be void, unless, within two months of the date of his appointment, nomination or election, he ceases to be such member, and, if any Director or member of a Local Board is elected or nominated as a member of any such Legislature [2][or Council], he shall cease to be a Director or member of the Local Board as from the date of such election or nomination, as the case may be.

(*6*) A Director may resign his office to the [3][Central Government] and a member of a Local Board may resign his office to the Central Board, and on the acceptance of the resignation the office shall become vacant

12. (*1*) If the Governor or a Deputy Governor by infirmity or otherwise is rendered incapable of executing his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the [3][Central Government] may, after consideration of the recommendations made by the Central Board in this behalf, appoint another person to officiate for him, and such person may, notwithstanding anything contained in clause (*d*) of sub-section (*1*) of section 10, be an officer of the Bank. Casual vacancies and absences

(*2*) If an elected Director is for any reason unable to attend a particular meeting of the Central Board, the elected members of the Local Board of the area which he represents may elect one of their number to take his place, and for the purposes of that meeting the substitute so elected shall have all the powers of the absent Director

(*3*) Where any casual vacancy in the office of any member of a Local Board occurs otherwise than by the occurrence of a vacancy in the office of a Director elected by the Local Board, the Central Board may nominate thereto any qualified person recommended by the elected members of the Local Board

(*4*) Where any casual vacancy occurs in the office of a Director other than the vacancies provided for in sub-section (*1*) the vacancy shall be filled, in the case of a nominated Director by nomination, and in the case of an elected Director by election held in the manner provided in section 9 for the election of Directors :

Provided that before such election is made the resulting vacancy, if any, in the Local Board and any vacancy in the office of an elected member of such

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[1] Subs for "the Indian Legislature or of a local Legislature", by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt III, para. 1 and Sch. III

[2] Ins, *ibid.*

[3] Subs. for "G G. in C", *ibid.*

Board which may have been filled by a member nominated under sub-section (3) shall be filled by election held as nearly as may be in the manner provided in section 9 for the election of members of a Local Board.

(5) A person nominated or elected under this section to fill a casual vacancy shall, subject to the proviso contained in sub-section (4), hold office for the unexpired portion of the term of his predecessor.

Meetings of the Central Board.

13. (1) Meetings of the Central Board shall be convened by the Governor at least six times in each year and at least once in each quarter.

(2) Any three Directors may require the Governor to convene a meeting of the Central Board at any time and the Governor shall forthwith convene a meeting accordingly.

(3) The Governor, or in his absence the Deputy Governor authorized by the Governor under the proviso to sub-section (3) of section 8 to vote for him, shall preside at meetings of the Central Board, and, in the event of an equality of votes, shall have a second or casting vote.

General meetings.

14. (1) A general meeting (hereinafter in this Act referred to as the annual general meeting) shall be held annually at a place [1][in British India] where there is an office of the Bank within six weeks from the date on which the annual accounts of the Bank are closed, and a general meeting may be convened by the Central Board at any other time:

Provided that the annual general meeting shall not be held on two consecutive occasions at any one place.

(2) The shareholders present at a general meeting shall be entitled to discuss the annual accounts, the report of the Central Board on the working of the Bank throughout the year and the auditors' report on the annual balance-sheet and accounts.

(3) Every shareholder shall be entitled to attend at any general meeting and each shareholder who has been registered on any register, for a period of not less than six months ending with the date of the meeting, as holding five or more shares shall have one vote and on a poll being demanded each shareholder so registered shall have one vote for each five shares, but subject to a maximum of ten votes, and such votes may be exercised by proxy appointed on each occasion for that purpose, such proxy being himself a shareholder entitled to vote at the election and not being an officer or employee of the Bank.

First constitution of the Central Board.

15. (1) The following provisions shall apply to the first constitution of the Central Board, and, notwithstanding anything contained in section 8, the Central Board as constituted in accordance therewith shall be deemed to be duly constituted in accordance with this Act.

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[1] Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

(*Chapter II.—Incorporation, Share Capital, Management and Business.*)

(*2*) The first Governor and the first Deputy Governor or Deputy Governors shall be appointed by the [1][Central Government] on [2]his own initiative, and shall receive such salaries and allowances as [3]he may determine.

(*3*) The first eight Directors representing the shareholders on the various registers shall be nominated by the [1][Central Government] from the areas served respectively by those registers, and the Directors so nominated shall hold office until their successors shall have been duly elected as provided in sub-section (*4*).

(*4*) On the expiry of each successive period of twelve months after the nomination of Directors under sub-section (*3*) two Directors shall be elected in the manner provided in section 9 until all the Directors so nominated have been replaced by elected Directors holding office in accordance with section 8. The register in respect of which the election is to be held shall be selected by lot from among the registers still represented by nominated Directors, and for the purposes of such lot the Madras and Rangoon registers shall be treated as if they comprised one register only.

First constitution of Local Boards.

16. As soon as may be after the commencement of this Act, the Central Board shall direct elections to be held and may make nominations, in order to constitute Local Boards in accordance with the provisions of section 9, and the members of such Local Boards shall hold office up to the date fixed under sub-section (*6*) of section 9, but shall not exercise any right under sub-section (*7*) of that section.

Business which the Bank may transact.

17. The Bank shall be authorized to carry on and transact the several kinds of business hereinafter specified, namely :—

(*1*) the accepting of money on deposit without interest from, and the collection of money for [4][the Secretary of State], the [1][Central Government], [5][the Federal Railway Authority, the Provincial Governments, the Government of Burma, the Burma Railway Board], States in India, local authorities, banks and any other persons ;

(*2*) (*a*) the purchase, sale and rediscount of bills of exchange and promissory notes, [6][drawn on India or Burma and payable in India or Burma] and arising out of *bonâ fide* commercial or trade transactions bearing two or more good signatures, one of which shall be that of a scheduled bank [7][or a Burma scheduled bank], and maturing within ninety days from the date of such purchase or rediscount, exclusive of days of grace ,

[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. I and Sch III, for " G G. in C."

[2] *Sic.* Should now read " its ".

[3] *Sic.* Should now read " it "

[4] [illegible] angements) Order, 1937, Pt. III, para [illegible]

(Chapter II.—Incorporation, Share Capital, Management and Business.)

(*b*) the purchase, sale and rediscount of bills of exchange and promissory notes, [1][drawn either in India or in Burma and payable either in India or in Burma] and bearing two or more good signatures, one of which shall be that of a scheduled bank, [2][a Burma scheduled bank, a provincial co-operative bank, or a Burma co-operative bank], and drawn or issued for the purpose of financing seasonal agricultural operations or the marketing of crops, and maturing within nine months from the date of such purchase or rediscount, exclusive of days of grace;

(*c*) the purchase, sale and rediscount of bills of exchange and promissory notes [1][drawn either in India or Burma and payable either in India or Burma] and bearing the signature of a scheduled bank [3][or a Burma scheduled bank], and issued or drawn for the purpose of holding or trading in securities of [4][the Central Government, a Provincial Government or the Government of Burma], or such securities of States in India as may be specified in this behalf by the [5][Central Government] on the recommendation of the Central Board, and maturing within ninety days from the date of such purchase or rediscount, exclusive of days of grace,

(*3*) (*a*) the purchase from and sale to scheduled banks [3][and Burma scheduled banks] of sterling in amounts of not less than the equivalent of one lakh of rupees,

(*b*) the purchase, sale and rediscount of bills of exchange (including treasury bills) drawn in or on any place in the United Kingdom and maturing within ninety days from the date of purchase, provided that no such purchase, sale or rediscount shall be made in India except with a scheduled bank [3][or in Burma except with a scheduled bank or a Burma scheduled bank]; and

(*c*) the keeping of balances with banks in the United Kingdom;

(*4*) the making to States in India, local authorities, scheduled banks [6][, Burma scheduled banks, provincial co-operative banks and Burma co-operative banks] of loans and advances, repayable on demand or on the expiry of fixed periods not exceeding ninety days, against the security of—

(*a*) stocks, funds and securities (other than immovable property) in which a trustee is authorized to invest trust money by any Act of Parliament or by any law for the time being in force in British India [3][or Burm [illegible]

[1] Subs. for "drawn and payal[illegible] [illegible]in", by the [illegible] Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, [illegible] and Sch. III.
[2] Subs. for "or a provincial co[illegible] bank", *ibid*.
[3] Ins., *ibid*.
[4] Subs. for "the G. of I. or a L[illegible]", *ibid*.
[5] Subs. for "G. G. in C.", *ibid*.
[6] Subs. f[illegible] "and provincial co[illegible] [illegible]ks", *ibid*.

(*b*) gold or silver or documents of title to the same ;

(*c*) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Bank ;

(*d*) promissory notes of any scheduled bank [1][Burma scheduled bank, provincial co-operative bank or Burma co-operative bank], supported by documents of title to goods which have been transferred, assigned, or pledged to any such bank as security for a cash credit or overdraft granted for *bonâ fide* commercial or trade transactions, or for the purpose of financing seasonal agricultural operations or the marketing of crops ,

(*5*) the making to the [2][Central Government] [3][, the Federal Railway Authority, Provincial Governments, the Government of Burma and the Burma Railway Board] of advances repayable in each case not later than three months from the date of the making of the advance ,

(*6*) the issue of demand drafts made payable at its own offices or agencies and the making, issue and circulation of bank post bills ,

(*7*) the purchase and sale of Government securities of the United Kingdom maturing within ten years from the date of such purchase ,

(*8*) the purchase and sale of securities [4][of the Central Government, a Provincial Government or the Government of Burma] of any maturity or of such securities of a local authority [5][or such Indian States] as may be specified in this behalf by the [2][Central Government] on the recommendation of the Central Board .

Provided that securities fully guaranteed as to principal and interest by [6][any such Government, authority or State] shall be deemed for the purposes of this clause to be securities of such Government, authority or State .

Provided further that the amount of such securities held at any time in the Banking Department shall be so regulated that—

(*a*) the total value of such securities shall not exceed the aggregate amount of the share capital of the Bank, the Reserve Fund and three-fifths of the liabilities of the Banking Department in respect of deposits ;

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[1] Subs by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for " or a provincial co-operative bank ".

[2] Subs for " G. G in C ", *ibid*

[3] Subs. for " and to such Local Governments as may have the custody and management of their own provincial revenues ", *ibid*.

[4] Subs. for " of the G of I or of a L. G ", *ibid*.

[5] Subs for " in British India or of such States in India ", *ibid*.

[6] Subs for " the G. of I , a L. G , a local authority or a State in India ", *ibid*.

(Chapter II.—Incorporation, Share Capital, Management and Business.)

(*b*) the value of such securities maturing after one year shall not exceed the aggregate amount of the share capital of the Bank, the Reserve Fund and two-fifths of the liabilities of the Banking Department in respect of deposits; and

(*c*) the value of such securities maturing after ten years shall not exceed the aggregate amount of the share capital of the Bank and the Reserve Fund and one-fifth of the liabilities of the Banking Department in respect of deposits;

(*9*) the custody of monies, securities and other articles of value, and the collection of the proceeds, whether principal, interest or dividends, of any such securities;

(*10*) the sale and realisation of all property, whether movable or immovable, which may in any way come into the possession of the Bank in satisfaction, or part satisfaction, of any of its claims;

(*11*) the acting as agent for [1][the Secretary of State], the [2][Central Government] [3][or any Provincial Government or the Government of Burma or any local authority or any Indian State] in the transaction of any of the following kinds of business, namely:—

(*a*) the purchase and sale of gold or silver;

(*b*) the purchase, sale, transfer and custody of bills of exchange, securities or shares in any company;

(*c*) the collection of the proceeds, whether principal, interest or dividends, of any securities or shares;

(*d*) the remittance of such proceeds, at the risk of the principal, by bills of exchange payable either in India or elsewhere;

(*e*) the management of public debt;

(*12*) the purchase and sale of gold coin and bullion;

(*13*) the opening of an account with or the making of an agency agreement with, and the acting as agent or correspondent of, a bank which is the principal currency authority of any country under the law for the time being in force in that country or any international bank formed by such banks, and the investing of the funds of the Bank in the shares of any such international bank;

(*14*) the borrowing of money for a period not exceeding one month for the purposes of the business of the bank, and the giving of security for money so borrowed:

Provided that no money shall be borrowed under this clause from any person in India [4][or Burma] other than a scheduled bank [5][or

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[illegible] 1937, Pt. III.

[illegible]

a Burma scheduled bank], or from any person outside India [1][and Burma] other than a bank which is the principal currency authority of any country under the law for the time being in force in that country :

Provided further that the total amount of such borrowings from persons in India [1][and Burma] shall not at any time exceed the amount of the share capital of the Bank ;

(*15*) the making and issue of bank notes subject to the provisions of this Act [1][and the making and issue of Burma notes in accordance with the law of Burma] ; and

(*16*) generally, the doing of all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act [1][and the law of Burma].

18. When, in the opinion of the Central Board or, where the powers and functions of the Central Board under this section have been delegated to a committee of the Central Board or to the Governor, in the opinion of such committee or of the Governor as the case may be, a special occasion has arisen making it necessary or expedient that action should be taken under this section for the purpose of regulating credit in the interests of Indian [1][or Burman] trade, commerce, industry and agriculture, the Bank may, notwithstanding any limitation contained in sub-clauses (*a*) and (*b*) of clause (*2*) or sub-clause (*a*) or (*b*) of clause (*3*) or clause (*4*) of section 17,— Power of direct discount.

(*1*) purchase, sell or discount any of the bills of exchange or promissory notes specified in sub-clause (*a*) or (*b*) of clause (*2*) or sub-clause (*b*) of clause (*3*) of that section though such bill or promissory note does not bear the signature of a scheduled bank [2][, a Burma scheduled bank, a provincial co-operative bank or a Burma co-operative bank] , or

(*2*) purchase or sell sterling in amounts of not less than the equivalent of one lakh of rupees ; or

(*3*) make loans or advances repayable on demand or on the expiry of fixed periods not exceeding ninety days against the various forms of security specified in clause (*4*) of that section .

Provided that a committee of the Board or the Governor shall not, save in cases of special urgency, authorize action under this section without prior consultation with the Central Board and that in all cases action so authorized shall be reported to the members of the Central Board forthwith.

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[1] Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para 1 and Sch. III.

[2] Subs for "or a provincial co-operative bank", *ibid.*

Business which the Bank may not transact.

19. Save as otherwise provided in sections 17, 18 and 45, the Bank may not—

(*1*) engage in trade or otherwise have a direct interest in any commercial, industrial, or other undertaking except such interest as it may in any way acquire in the course of the satisfaction of any of its claims. provided that all such interests shall be disposed of at the earliest possible moment;

(*2*) purchase its own shares or the shares of any other bank or of any company, or grant loans upon the security of any such shares;

(*3*) advance money on mortgage of, or otherwise on the security of, immovable property or documents of title relating thereto, or become the owner of immovable property, except so far as is necessary for its own business premises and residences for its officers and servants;

(*4*) make loans or advances,

(*5*) draw or accept bills payable otherwise than on demand;

(*6*) allow interest on deposits or current accounts.

CHAPTER III

Central Banking Functions.

Obligation of the Bank to transact Government business.

20. The Bank shall undertake to accept monies for account of [1][the Secretary of State, the Central Government, the Provincial Governments] and such States in India as may be approved of and notified by the [2][Central Government] in the Gazette of India, and to make payments up to the amount standing to the credit of their accounts respectively, and to carry out their exchange, remittance and other banking operations, including the management of the public debt.

Bank to have the right to transact Government business in India.

21. (*1*) The [2][Central Government] and [3][the Provincial Governments] shall entrust the Bank, on such conditions as may be agreed upon, with all their money, remittance, exchange and banking transactions in India, and, in particular, shall deposit free of interest all their cash balances with the Bank:

Provided that nothing in this sub-section shall prevent the [2][Central Government] or any [4][Provincial Government] from carrying on money

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...37, Pt. III, ... and such ...

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[4] Subs. for "L. G.", *ibid.*

(Chapter III.—Central Banking Functions.)

transactions at places where the Bank has no branches or agencies, and the [1][Central Government] and [2][the Provincial Governments] may hold at such places such balances as they may require.

(2) The [1][Central Government] and each [3][Provincial Government] shall entrust the Bank, on such conditions as may be agreed upon, with the management of the public debt and with the issue of any new loans.

(3) In the event of any failure to reach agreement on the conditions referred to in this section the [1][Central Government] shall decide what the conditions shall be.

(4) Any agreement made under this section to which the [1][Central Government] or any [3][Provincial Government] is a party shall be laid, as soon as may be after it is made, before the Central Legislature and in the case of a [3][Provincial Government] before [4][the Provincial Legislature] also.

22. (1) The Bank shall have the sole right to issue bank notes in British India, and may, for a period which shall be fixed by the [1][Central Government] on the recommendation of the Central Board, issue currency notes of the Government of India supplied to it by the [1][Central Government], and the provisions of this Act applicable to bank notes shall, unless a contrary intention appears, apply to all currency notes of the Government of India issued either by the [1][Central Government] or by the Bank in like manner as if such currency notes were bank notes, and references in this Act to bank notes shall be construed accordingly. Right to issue bank notes.

(2) On and from the date on which this Chapter comes into force the [1][Central Government] shall not issue any currency notes.

[5][(3) In this section, references to bank notes include references to Burma notes.]

23. (1) The issue of bank notes shall be conducted by the Bank in an Issue Department which shall be separated and kept wholly distinct from the Banking Department, and the assets of the Issue Department shall not be subject to any liability other than the liabilities of the Issue Department as hereinafter defined in section 34. Issue Department

(2) The Issue Department shall not issue bank notes to the Banking Department or to any other person except in exchange for other bank notes or for such coin, bullion or securities as are permitted by this Act to form part of the Reserve.

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[1] [illegible] Arrangements) Order, 1937, Pt. III.

[illegible]

[5] Ins., ibid.

(Chapter III.—Central Banking Functions.)

Denominations of notes.

24. Bank notes shall be of the denominational values of five rupees, ten rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees and ten thousand rupees, unless otherwise directed by the [1][Central Government] on the recommendation of the Central Board.

Form of bank notes.

25. The design, form and material of bank notes shall be such as may be approved by the [1][Central Government] after consideration of the recommendations made by the Central Board.

Legal tender character of notes.

26. (*1*) Subject to the provisions of sub-section (2), every bank note shall be legal tender at any place in British India in payment or on account for the amount expressed therein, and shall be guaranteed by the [1][Central Government].

(*2*) On recommendation of the Central Board the [1][Central Government] may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender save at an office or agency of the Bank.

[2][(*3*) Every Burma note shall be guaranteed by the Central Government.]

Re-issue of notes.

27. The Bank shall not re-issue bank notes which are torn, defaced or excessively soiled.

Recovery of notes lost, stolen, mutilated or imperfect.

[3][**28.** (*1*)] Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall of right be entitled to recover from the [1][Central Government] or the Bank, the value of any lost, stolen, mutilated or imperfect currency note of the Government of India, or bank note :

Provided that the Bank may, with the previous sanction of the [1][Central Government], prescribe the circumstances in and the conditions and limitations subject to which the value of such currency notes or bank notes may be refunded as of grace and the rules made under this proviso shall be laid on the table of both Houses of the Central Legislature.

[3][(*2*) The provisions of sub-section (*1*) of this section, other than the proviso thereto, shall apply to Burma notes as they apply to bank notes ; and refunds may be made as of grace in respect of Burma notes in accordance with the provision made in that behalf by the law of Burma.]

Bank exempt from stamp duty on bank notes.

29. The Bank shall not be liable to the payment of any stamp duty under the Indian Stamp Act, 1899, in respect of bank notes [2][or Burma notes] issued by it. II of 1899.

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for " G. G. in C. "

[2] Ins., *ibid*.

[3] S. 28 was (impliedly) re numbered as sub-section (*1*) of that section, and sub section (*2*) added, *ibid*.

(Chapter III.—Central Banking Functions.)

Powers of Central Government to supersede Central Board.

30. (*1*) If in the opinion of the [1][Central Government] the Bank fails to carry out any of the obligations imposed on it by or under this Act [2][or by or under the law of Burma], [3][the Central Government] may, by notification in the Gazette of India, declare the Central Board to be superseded, and thereafter the general superintendence and direction of the affairs of the Bank shall be entrusted to such agency as the [1][Central Government] may determine, and such agency may exercise the powers and do all acts and things which may be exercised or done by the Central Board under this Act.

(*2*) When action is taken under this section the [1][Central Government] shall cause a full report of the circumstances leading to such action and of the action taken to be laid before the Central Legislature at the earliest possible opportunity and in any case within three months from the issue of the notification superseding the Board

Issue of demand bills and notes.

31. No person in British India other than the Bank or, as expressly authorized by this Act, the [1][Central Government] shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person

Provided that cheques or drafts, including hundis, payable to bearer on demand or otherwise may be drawn on a person's account with a banker, shroff or agent.

Penalty.

32. (*1*) Any person contravening the provisions of section 31 shall be punishable with fine which may extend to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

(*2*) No prosecution under this section shall be instituted except on complaint made by the Bank.

Assets of the Issue Department.

33. (*1*) The assets of the Issue Department shall consist of gold coin, gold bullion, sterling securities, rupee coin and rupee securities to such aggregate amount as is not less than the total of the liabilities of the Issue Department as hereinafter defined.

(*2*) Of the total amount of the assets, not less than two-fifths shall consist of gold coin, gold bullion or sterling securities :

Provided that the amount of gold coin and gold bullion shall not at any time be less than forty crores of rupees in value.

(*3*) The remainder of the assets shall be held in rupee coin, Government of India rupee securities of any maturity and such bills of exchange and promissory notes payable in British India [2][or in Burma] as are eligible for purchase by the Bank under sub-clause (*a*) or sub-clause (*b*) of clause (*2*) of section 17 or under clause (*1*) of section 18 :

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[1] Subs by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch III, for "G. G. in C."

[2] Ins., *ibid.*

[3] Subs. for " he ", *ibid.*

(Chapter III.—Central Banking Functions.)

Provided that the amount held in Government of India rupee securities shall not at any time exceed one-fourth of the total amount of the assets or fifty crores of rupees, whichever amount is greater, or, with the previous sanction of the [1][Central Government], such amount *plus* a sum of ten crores of rupees.

(4) For the purposes of this section, gold coin and gold bullion shall be valued at 8·47512 grains of fine gold per rupee, rupee coin shall be valued at its face value, and securities shall be valued at the market rate for the time being obtaining.

(5) Of the gold coin and gold bullion held as assets, not less than seventeen-twentieths shall be held in British India, and all gold coin and gold bullion held as assets shall be held in the custody of the Bank or its agencies:

Provided that gold belonging to the Bank which is in any other bank or in any mint or treasury or in transit may be reckoned as part of the assets.

(6) For the purposes of this section, the sterling securities which may be held as part of the assets shall be securities of any of the following kinds payable in the currency of the United Kingdom, namely:—

(a) balances at the credit of the Issue Department with the Bank of England;

(b) bills of exchange bearing two or more good signatures and drawn on and payable at any place in the United Kingdom and having a maturity not exceeding ninety days;

(c) Government securities of the United Kingdom maturing within five years:

Provided that, for a period of two years from the date on which this Chapter comes into force, any of such last mentioned securities may be securities maturing after five years, and the Bank may, at any time before the expiry of that period, dispose of such securities notwithstanding anything contained in section 17.

Liabilities of the Issue Department.

34. (1) The liabilities of the Issue Department shall be an amount equal to the total of the amount of the currency notes of the Government of India and bank notes for the time being in circulation.

(2) For the purposes of this section, any currency note of the Government of India or bank note which has not been presented for payment within forty years from the 1st day of April following the date of its issue shall be deemed not to be in circulation, and the value thereof shall, notwithstanding anything contained in sub-section (2) of section 23, be paid by the Issue Department to the [1][Central Government] or the Banking Department, as the case may be; but any such note, if subsequently presented for payment, shall be paid by the Banking Department, and any such payment in the case of a

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

currency note of the Government of India shall be debited to the [1][Central Government].

[2][(*3*) In this section, references to bank notes include references to Burma notes.]

35. On the date on which this Chapter comes into force the Issue Department shall take over from the [1][Central Government] the liability for all the currency notes of the Government of India for the time being in circulation and the [1][Central Government] shall transfer to the Issue Department gold coin, gold bullion, sterling securities, rupee coin and rupee securities to such aggregate amount as is equal to the total of the amount of the liability so transferred. The coin, bullion and securities shall be transferred in such proportion as to comply with the requirements of section 33. Initial assets and liabilities.

Provided that the total amount of the gold coin, gold bullion and sterling securities so transferred shall not be less than one-half of the whole amount transferred, and that the amount of rupee coin so transferred shall not exceed fifty crores of rupees

Provided further that the whole of the gold coin and gold bullion held by the [1][Central Government] in the gold standard reserve and the paper currency reserve at the time of transfer shall be so transferred

36. (*1*) After the close of any financial year in which the minimum amount of rupee coin held in the assets, as shown in any of the weekly accounts of the Issue Department for that year prescribed under sub-section (*1*) of section 53 is greater than fifty crores of rupees or one-sixth of the total amount of the assets as shown in that account, whichever may be the greater, the Bank may deliver to the [1][Central Government] rupee coin up to the amount of such excess but not [3][without that Government's consent] exceeding five crores of rupees, against payment of legal tender value in the form of bank notes, gold or securities Method of dealing with fluctuations in rupee coin assets

Provided that if the Bank so desires and if the amount of gold coin, gold bullion and sterling securities in the assets does not at that time exceed one-half of the total assets, a proportion not exceeding two-fifths of such payment shall be in gold coin, gold bullion or such sterling securities as may be held as part of the assets under sub-section (*6*) of section 33.

(*2*) After the close of any financial year in which the maximum amount of rupee coin held in the assets, as so shown, is less than fifty crores of rupees or one-sixth of the total amount of the assets, as so shown, whichever may be the greater, the [1][Central Government] shall deliver to the Bank rupee coin up to the amount of such deficiency, but not without its consent exceeding five crores of rupees, against payment of legal tender value.

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para 1 and Sch III, for "G. G in C."

[2] Ins, *ibid.*

[3] Subs. for "without his consent", *ibid.*

(*Chapter III.—Central Banking Functions.*)

Suspension of assets requirements.

37. (*1*) Notwithstanding anything contained in the foregoing provisions, the Bank may, with the previous sanction of the [1][Central Government], for periods not exceeding thirty days in the first instance, which may, with the like sanction, be extended from time to time by periods not exceeding fifteen days, hold as assets gold coin, gold bullion or sterling securities of less aggregate amount than that required by sub-section (*2*) of section 33 and, whilst the holding is so reduced, the proviso to that sub-section shall cease to be operative:

Provided that the gold coin and gold bullion held as such assets shall not be reduced below the amount specified in the proviso to sub-section (*2*) of section 33 so long as any sterling securities remain held as such assets.

(*2*) In respect of any period during which the holding of gold coin, gold bullion and sterling securities is reduced under sub-section (*1*), the Bank shall pay to the [1][Central Government] a tax upon the amount by which such holding is reduced below the minimum prescribed by sub-section (*2*) of section 33; and such tax shall be payable at the bank rate for the time being in force, with an addition of one per cent. per annum when such holding exceeds thirty-two and a half per cent of the total amount of the assets and of a further one and a half per cent. per annum in respect of every further decrease of two and a half per cent. or part of such decrease:

Provided that the tax shall not in any event be payable at a rate less than six per cent. per annum.

Obligations of Government and the Bank in respect of rupee coin.

38. The [1][Central Government] shall undertake not to re-issue any rupee coin delivered under section 36 nor to put into circulation any rupees, except through the Bank and as provided in that section; and the Bank shall undertake not to dispose of rupee coin otherwise than for the purposes of circulation or by delivery to the [1][Central Government] under that section.

Obligation to supply different forms of currency.

39. (*1*) The Bank shall issue rupee coin on demand in exchange for bank notes and currency notes of the Government of India, and shall issue currency notes or bank notes on demand in exchange for coin which is legal tender under the Indian Coinage Act, 1906. III of 19

(*2*) The Bank shall, in exchange for currency notes or bank notes of five rupees or upwards, supply currency notes or bank notes of lower value or other coins which are legal tender under the Indian Coinage Act, 1906, in such quantities as may, in the opinion of the Bank, be required for circulation; and the [1][Central Government] shall supply such coins to the Bank on demand. If the [1][Central Government] at any time fails to supply such coins, the Bank shall be released from its obligations to supply them to the public. III of 19

Obligation to sell sterling.

40. The Bank shall sell, to any person who makes a demand in that behalf at its office in Bombay, Calcutta, Delhi, Madras or Rangoon and pays the purchase price in legal tender currency, sterling for immediate delivery in

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

(*Chapter III.—Central Banking Functions.*)

London, at a rate not below one shilling and five pence and forty-nine sixty-fourths of a penny for a rupee :

Provided that no person shall be entitled to demand to buy an amount of sterling less than ten thousand pounds.

41. The Bank shall buy, from any person who makes a demand in that behalf at its office in Bombay, Calcutta, Delhi, Madras or Rangoon, sterling for immediate delivery in London, at a rate not higher than one shilling and six pence and three-sixteenths of a penny for a rupee : Obligation to buy sterling.

Provided that no person shall be entitled to demand to sell an amount of sterling less than ten thousand pounds

Provided further that no person shall be entitled to receive payment unless the Bank is satisfied that payment of the sterling in London has been made.

[1][**41A.** (*1*) The Bank shall provide any person who makes a demand in that behalf with remittance between its office in Rangoon and such office or offices in India as may be prescribed by the Central Board, in such amounts, at such fixed rate of exchange and subject only to such rate or rates of commission as may be approved by the Central Government and the Government of Burma : Obligation to provide remittance between India and Burma.

Provided that so long as the Bank is bound under Part II of the India and Burma (Burma Monetary Arrangements) Order, 1937, to issue on demand India rupee coin in exchange for legal tender notes, the rate of exchange shall be par.

(*2*) Burma assets and liabilities of the bank or any scheduled bank shall be valued, for the purposes of this Act, at the rate of exchange so fixed, or, as the case may be, at par.]

42. (*1*) Every bank included in the Second Schedule shall maintain with the Bank a balance the amount of which shall not at the close of business on any day be less than five per cent. of the demand liabilities and two per cent. of the time liabilities of such bank in India [1][and Burma] as shown in the return referred to in sub-section (*2*). Cash reserves of scheduled banks to be kept with the Bank.

Explanation.—For the purposes of this section liabilities shall not include the paid-up capital or the reserves, or any credit balance in the profit and loss account of the bank or the amount of any loan taken from the Reserve Bank.

(*2*) Every scheduled bank shall send to the [2][Central Government] and to the Bank a return signed by two responsible officers of such bank showing—

[3][(*a*) the amounts of its demand and time liabilities, respectively, in India,

(*b*) the amounts of its demand and time liabilities, respectively, in Burma,

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[1] Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III

[2] Subs. for "G G in C.", *ibid.*

[3] Subs. for the original clauses (*a*) to (*c*), *ibid.*

(*c*) the total amount held in India in currency notes of the Government of India and bank notes,

(*d*) the total amount held in India in Burma notes,

(*e*) the total amount held in Burma in currency notes of the Government of India and bank notes,

(*f*) the total amount held in Burma in Burma notes,

(*g*) the amounts held in India in rupee coin and subsidiary coin, respectively,

(*h*) the amounts held in Burma in rupee coin, subsidiary coin and Burma coin respectively,

(*i*) the amounts of advances made and of bills discounted in India, respectively,

(*j*) the amounts of advances made and of bills discounted in Burma, respectively, and

(*k*) the balance held at the Bank,]

at the close of business on each Friday, or if Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day, and such return shall be sent not later than two working days after the date to which it relates :

XXVI of 1881.

Provided that where the Bank is satisfied that the furnishing of a weekly return under this sub-section is impracticable in the case of any scheduled bank by reason of the geographical position of the bank and its branches, the Bank may require such bank to furnish in lieu of a weekly return a monthly return to be dispatched not later than fourteen days after the end of the month to which it relates giving the details specified in this sub-section in respect of such bank at the close of business for the month.

(*3*) *If at the close of business on any day before the day fixed for the next* return, the balance held at the Bank by any scheduled bank is below the minimum prescribed in sub-section (*1*), such scheduled bank shall be liable to pay to the Bank in respect of each such day penal interest at a rate three per cent. above the bank rate on the amount by which the balance with the Bank falls short of the prescribed minimum, and if on the day fixed for the next return such balance is still below the prescribed minimum as disclosed by this return, the rates of penal interest shall be increased to a rate five per cent. above the bank rate in respect of that day and each subsequent day on which the balance held at the Bank at the close of business on that day is below the prescribed minimum.

(*4*) Any scheduled bank failing to comply with the provisions of sub-section (*2*) shall be liable to pay to the [1][Central Government] or to the Bank, as the case may be, or to each, a penalty of one hundred rupees for each day during which the failure continues.

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

(*Chapter III.—Central Banking Functions.*)

(*5*) The penalties imposed by sub-sections (*3*) and (*4*) shall be payable on demand made by the Bank, and, in the event of a refusal by the defaulting bank to pay on such demand, may be levied by a direction of the principal Civil Court having jurisdiction in the area where an office of the defaulting bank is situated, such direction to be made only upon application made in this behalf to the Court by the [1][Central Government] in the case of a failure to make a return under sub-section (*2*) to the [1][Central Government], or by the Bank with the previous sanction of the [1][Central Government] in other cases.

(*6*) The [1][Central Government] shall, by notification in the Gazette of India, direct the inclusion in the Second Schedule of any bank not already so included which carries on the business of banking in British India and which—

(*a*) has a paid-up capital and reserves of an aggregate value of not less than five lakhs of rupees, and

(*b*) is a company as defined in clause (*2*) of section 2 of the Indian Companies Act, 1913, or a corporation or a company incorporated by or under any law in force in any place outside British India, VII of 1913.

and shall by a like notification direct the exclusion from that Schedule of any scheduled bank the aggregate value of whose paid-up capital and reserves becomes at any time less than five lakhs of rupees, or which goes into liquidation or otherwise ceases to carry on banking business

43. The Bank shall compile and shall cause to be published each week a consolidated statement showing the aggregate of the amounts under each clause of sub-section (*2*) of section 42 exhibited in the returns received from scheduled banks under that section [2][and from Burma scheduled banks under the corresponding provisions of the law of Burma]

Publication of consolidated statement by the Bank.

44. The Bank may require any provincial co-operative bank with which it has any transactions under section 17 to furnish the return referred to in sub-section (*2*) of section 42, and if it does so, the provisions of sub-sections (*4*) and (*5*) of section 42 shall apply so far as may be to such co-operative bank as if it were a scheduled bank.

Power to require returns from co-operative banks.

45. (*1*) The Bank shall enter into an agreement with the Imperial Bank of India which shall be subject to the approval of the [1][Central Government] and shall be expressed to come into force on the date on which this Chapter comes into force and to remain in force for fifteen years and thereafter until terminated after five years' notice on either side, and shall further contain the provisions set forth in the Third Schedule:

Agreement with the Imperial Bank.

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

[2] Ins., *ibid*.

Provided that the agreement shall be conditional on the maintenance of a sound financial position by the Imperial Bank and that if, in the opinion of the Central Board, the Imperial Bank has failed either to fulfil the conditions of the agreement or to maintain a sound financial position, the Central Board shall make a recommendation to the [1][Central Government], and the [1][Central Government], after making such further enquiry as [2][it thinks fit], may issue instructions to the Imperial Bank with reference either to the agreement or to any matter which [3][in its opinion] involves the security of the Government monies or the assets of the Issue Department in the custody of the Imperial Bank, and in the event of the Imperial Bank disregarding such instructions may declare the agreement to be terminated.

(*2*) The agreement referred to in sub-section (*1*) shall, as soon as may be after it is made, be laid before the Central Legislature.

26 Geo. 5, c. 2.

[4][(*3*) As from the commencement[5] of Part III of the Government of India Act, 1935, references in the said agreement to the Governor-General in Council in relation to his general banking business, his accounts, and sums due to or from him, and references to Government in relation to receipts and disbursements dealt with on account of Government shall be construed as including references to the Provincial Governments and the Federal Railway Authority.]

CHAPTER IV.

GENERAL PROVISIONS.

Contribution by Central Government to the Reserve Fund.

46. The [1][Central Government] shall transfer to the Bank rupee securities of the value of five crores of rupees to be allocated by the Bank to the Reserve Fund.

Allocation of surplus.

47. *After making provision for bad and doubtful debts, depreciation in* assets, contributions to staff and superannuation funds, and such other contingencies as are usually provided for by bankers, and after payment out of the net annual profits of a cumulative dividend at such rate not exceeding five per cent. per annum on the share capital as the [1][Central Government] may fix at the time of the issue of shares, a portion of the surplus shall be allocated to the payment of an additional dividend to the shareholders calculated on the scale set forth in the Fourth Schedule and the balance of the surplus shall be paid to the [1][Central Government]:

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for " G. G. in C."
[2] Subs. for " he thinks fit ", *ibid.*
[3] Subs. for " in his opinion ", *ibid.*
[4] Ins., *ibid.*
[5] Pt. III of the G. of I. Act, 1935, came into force on the 1st April, 1937.

(*Chapter IV.—General Provisions.*)

Provided that if at any time the Reserve Fund is less than the share capital, not less than fifty lakhs of rupees of the surplus, or the whole of the surplus if less than that amount, shall be allocated to the Reserve Fund.

48. (*1*) Notwithstanding anything contained in the Indian Income-tax Act, 1922, or any other enactment for the time being in force relating to income-tax or super-tax, the Bank shall not be liable to pay income-tax or super-tax on any of its income, profits or gains: *Exemption of Bank from income-tax and super-tax and provision for deduction at source of income-tax on dividends.* XI of 1922.

Provided that nothing in this section shall affect the liability of any shareholder in respect of income-tax or super-tax.

XI of 1922. (2) For the purposes of section 18 of the Indian Income-tax Act, 1922, and of any other relevant provision of that Act relating to the levy and refund of income-tax any dividend paid under section 47 of this Act shall be deemed to be "Interest on Securities".

49. The Bank shall make public from time to time the standard rate at which it is prepared to buy or re-discount bills of exchange or other commercial paper eligible for purchase under this Act. *Publication of bank rate.*

50. (*1*) Not less than two auditors shall be elected and their remuneration fixed at the annual general meeting. The auditors may be shareholders, but no Director or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible for re-election on quitting office. *Auditors.*

(2) The first auditors of the Bank may be appointed by the Central Board before the first annual general meeting and, if so appointed, shall hold office only until that meeting. All auditors elected under this section shall severally be, and continue to act as, auditors until the first annual general meeting after their respective elections.

Provided that any casual vacancy in the office of any auditor elected under this section may be filled by the Central Board

51. Without prejudice to anything contained in section 50, the [1][Central Government] may at any time appoint the Auditor General or such auditors as [2][it thinks fit] to examine and report upon the accounts of the Bank *Appointment of special auditors by Government.*

52. (*1*) Every auditor shall be supplied with a copy of the annual balance-sheet, and it shall be his duty to examine the same, together with the accounts and vouchers relating thereto, and every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank if appointed by it or at the expense of the [1][Central Government] if appointed [3][by that Government], employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director or officer of the Bank. *Powers and duties of auditors.*

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt III, para. 1 and Sch III, for "G G in C"

[2] Subs. for "he thinks fit", *ibid.*

[3] Subs. for "by him", *ibid.*

(Chapter IV.—General Provisions.)

(2) The auditors shall make a report to the shareholders or to the [1][Central Government] as the case may be, upon the annual balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and, in case they have called for any explanation or information from the Central Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read, together with the report of the Central Board, at the annual general meeting.

Returns

53. (1) The Bank shall prepare and transmit to the [1][Central Government] a weekly account of the Issue Department and of the Banking Department in [2][such] form as the [1][Central Government] may, by notification in the Gazette of India, prescribe. The [1][Central Government] shall cause these accounts to be published weekly in the Gazette of India.

(2) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the [1][Central Government] a copy of the annual accounts signed by the Governor, the Deputy Governors and the Chief Accounting Officer of the Bank, and certified by the auditors, together with a report by the Central Board on the working of the Bank throughout the year, and the [1][Central Government] shall cause such accounts and report to be published in the Gazette of India.

(3) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the [1][Central Government] a statement showing the name, address and occupation of, and the number of shares held by, each shareholder of the Bank.

Agricultural Credit Department.

54. The Bank shall create a special Agricultural Credit Department the functions of which shall be—

(a) to maintain an expert staff to study all questions of agricultural credit and be available for consultation by the [1][Central Government], [3][Provincial Governments, the Government of Burma], provincial co-operative banks, [4][Burma co-operative banks] and other banking organisations,

(b) to co-ordinate the operations of the Bank in connection with agricultural credit and its relations with provincial co-operative banks [4][, Burma co-operative banks] and any other banks or organisations engaged in the business of agricultural credit.

Reports by the Bank.

55. (1) The Bank shall, at the earliest practicable date and in any case within three years from the date on which this Chapter comes into force, make

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."
[2] Subs. for "the form set out in the Fifth Sch. or in such other", *ibid.*
[3] Subs. for "*Local Governments*", *ibid.*
[4] Ins., *ibid.*

(Chapter IV.—General Provisions.)

to the [1][Central Government] a report, with proposals, if it thinks fit, for legislation, on the following matters, namely:—

(a) the extension of the provisions of this Act relating to scheduled banks to persons and firms, not being scheduled banks, engaged in British India in the business of banking, and

(b) the improvement of the machinery for dealing with agricultural finance and methods for effecting a closer connection between agricultural enterprise and the operations of the Bank.

(2) When the Bank is of opinion that the international monetary position has become sufficiently clear and stable to make it possible to determine what will be suitable as a permanent basis for the Indian monetary system and to frame permanent measures for a monetary standard it shall report its views to the [1][Central Government].

56. (1) The Local Board of any area may at any time require any shareholder who is registered on the register for that area to furnish to the Local Board within a specified time, not being less than thirty days, a declaration, in such form as the Central Board may by regulations prescribe, giving particulars of all shares on the said register of which he is the owner. **Power to require declaration as to ownership of registered shares.**

(2) If it appears from such declaration that any shareholder is not the owner of any shares which are registered in his name, the Local Board may amend the register accordingly.

(3) If any person required to make a declaration under sub-section (1) fails to make such declaration within the specified time, the Local Board may make an entry against his name in the register recording such failure and directing that he shall have no right to vote, either under section 9 or section 14, by reasons of the shares registered in his name on that register

(4) Whoever makes a false statement in any declaration furnished by him under sub-section (1) shall be deemed to have committed the offence of giving false evidence defined in section 191 of the Indian Penal Code, and shall be punishable under the second paragraph of section 193 of that Code **XLV of 1860.**

(5) Nothing contained in any declaration furnished under sub-section (1) shall operate to affect the Bank with notice of any trust, and no notice of any trust expressed, implied or constructive shall be entered on the register or be receivable by the Bank.

(6) Until Local Boards have been constituted under section 9 the powers of a Local Board under this section shall be exercised by the Central Board in respect of any arrear for which a Local Board has not been constituted.

VII of 1913. **57.** (1) Nothing in the Indian Companies Act, 1913, shall apply to the Bank, and the Bank shall not be placed in liquidation save by order of the [1][Central Government] and in such manner as [2][it may direct] **Liquidation of the Bank.**

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[1] Subs by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch III, for "G. G. in C."

[2] Subs. for "he may direct", *ibid.*

(*Chapter IV.—General Provisions.*)

(2) In such event the Reserve Fund and surplus assets, if any, of the Bank shall be divided between the [1][Central Government] and the shareholders in the proportion of seventy-five per cent. and twenty-five per cent., respectively:

Provided that the total amount payable to any shareholder under this section shall not exceed the paid-up value of the shares held by him by more than one per cent. for each year after the commencement of this Act subject to a maximum of twenty-five per cent.

Power of the Central Board to make regulations.

58. (*1*) The Central Board may, with the previous sanction of the [1][Central Government], make regulations consistent with this Act to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:—

(*a*) the holding and conduct of elections under this Act, including provisions for the holding of any elections according to the principle of proportional representation by means of the single transferable vote;

(*b*) the final decision of doubts or disputes regarding the qualifications of candidates for election or regarding the validity of elections;

(*c*) the maintenance of the share register, the manner in which and the conditions subject to which shares may be held and transferred, and, generally, all matters relating to the rights and duties of shareholders;

(*d*) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which votes may be exercised;

(*e*) the manner in which notices may be served on behalf of the Bank upon shareholders or other persons;

(*f*) the manner in which the business of the Central Board shall be transacted, and the procedure to be followed at meetings thereof;

(*g*) the conduct of business of Local Boards and the delegation to such Boards of powers and functions;

(*h*) the delegation of powers and functions of the Central Board to the Governor, or to Deputy Governors, Directors or officers of the Bank;

(*i*) the formation of Committees of the Central Board, the delegation of powers and functions of the Central Board to such Committees, and the conduct of business in such Committees;

(*j*) the constitution and management of staff and superannuation funds for the officers and servants of the Bank;

[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, Para. 1 and Sch. III, for "G. G. in C."

(k) the manner and form in which contracts binding on the Bank may be executed ;

(l) the provision of an official seal of the Bank and the manner and effect of its use ;

(m) the manner and form in which the balance-sheet of the Bank shall be drawn up, and in which the accounts shall be maintained ;

(n) the remuneration of Directors of the Bank ;

(o) the relations of the scheduled banks with the Bank and the returns to be submitted by the scheduled banks to the Bank ;

(p) the regulation of clearing-houses for the scheduled banks ;

(q) the circumstances in which, and the conditions and limitations subject to which, the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note may be refunded, and

(r) generally, for the efficient conduct of the business of the Bank.

(3) Copies of all regulations made under this section shall be available to the public on payment.

59 to 61. [*Amendment of Act III of 1906. Repeals. Amendment of section 11, Act VII of 1913.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

THE FIRST SCHEDULE

(See section 4.)

AREAS SERVED BY THE VARIOUS SHARE REGISTERS.

I. The WESTERN AREA, served by the BOMBAY Register, shall consist of—

the Bombay Presidency including Sind, the Central Provinces, Berar, Hyderabad, Baroda, Khairpur, the Western India States, the Central India States (including Makrai but excluding Rewah and other States of Bundelkhand and Baghelkhand), the Gujerat States, Kolhapur and the Deccan States.

II. The EASTERN AREA, served by the CALCUTTA Register, shall consist of—

the Bengal Presidency, Bihar and Orissa, Assam, Sikkim, Manipur, Cooch-Behar, Tripura, the Eastern States, Rewah and other States of Bundelkhand and Baghelkhand, and the Khasi States.

(The First and Second Schedules.)

III. The NORTHERN AREA, served by the DELHI Register, shall consist of—

> the United Provinces, Delhi, the Punjab, the North-West Frontier Province, Ajmer-Merwara, Baluchistan, Kashmir, the Punjab States, excluding Khairpur, the Simla Hill States, Dujana, Pataudi, Kalsia, Rampur, Tehri-Garhwal, Benares, the Rajputana States including Palanpur and Danta, Gwalior, Khaniadhana, Kalat, Las Bela, Hunza, Nagir, Amb, Chitral, Dir, Phulera and Swat.

IV. The SOUTHERN AREA, served by the MADRAS Register, shall consist of—

> the Madras Presidency, Coorg, Mysore and the Madras States.

V. The BURMA AREA, served by the RANGOON Register, shall consist of—

> [1][Burma and the Andaman and Nicobar Islands.]

THE SECOND SCHEDULE.

[See section 42 and section 2 (e).]

SCHEDULED BANKS.

Ajodhia Bank, Fyzabad.
Allahabad Bank.
American Express Company Incorporated.
Banco Nacional Ultramarino.
Bank of Baroda.
Bank of Behar.
Bank of Hindustan, Madras.
Bank of India, Bombay.
Bank of Taiwan.
Benares Bank.
Bengal Central Bank.
Bhagwan Das & Co., Dehra Dun.
Canara Bank.
Central Bank of India.
Chartered Bank of India, Australia and China
Comptoir National d'Escompte de Paris.
Eastern Bank.

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "Burma, the Andaman and Nicoar Islands, Bawlake, Kantarawadi, and Kyebogyi."

(The Second and Third Schedules.)

Grindlay and Company.
Hongkong and Shanghai Banking Corporation.
Imperial Bank of India.
Indian Bank, Madras.
Industrial Bank of Western India, Ahmedabad.
Karnani Industrial Bank.
Lloyds Bank.
Mercantile Bank of India.
Mitsui Bank, Bombay.
National Bank of India
National City Bank of New York
Nederlandsche Indische Handels-bank.
Nederlandsche Handel-Maatschappij.
Nedungadi Bank, Calicut.
Oudh Commercial Bank.
P. and O. Banking Corporation.
Punjab and Sind Bank, Amritsar.
Punjab Co-operative Bank, Amritsar.
Punjab National Bank, Lahore.
Simla Banking and Industrial Company.
Thomas Cook & Sons.
Travancore National Bank, Tiruvalla.
Union Bank of India, Bombay.
Yokohama Specie Bank.
[1][Quilon Bank, Quilon, South India.
Nadar Bank, Tuticorin.
Comilla Union Bank, Comilla.
Indo-Commercial Bank, Mayavaram.
Comilla Banking Corporation, Comilla.]

THE THIRD SCHEDULE.

(See section 45.)

PROVISIONS TO BE CONTAINED IN THE AGREEMENT BETWEEN THE RESERVE BANK OF INDIA AND THE IMPERIAL BANK OF INDIA.

1. The Imperial Bank of India shall be the sole agent of the Reserve Bank of India at all places in British India where there is a branch of the Imperial

[1] [illegible]

(The Third Schedule.)

Bank of India which was in existence at the commencement of the Reserve Bank of India Act, 1934, and there is no branch of the Banking Department of the Reserve Bank of India.

2. In consideration of the performance at the places referred to in clause 1 by the Imperial Bank of India on behalf of the Reserve Bank of India of the functions which the Imperial Bank of India was performing on behalf of the [1][Central Government] before the coming into force of the Reserve Bank of India Act, 1934, the Reserve Bank of India shall pay to the Imperial Bank of India as remuneration a sum which shall be for the first ten years during which this agreement is in force a commission calculated at one-sixteenth of one per cent. on the first 250 crores and one thirty-second of one per cent. on the remainder of the total of the receipts and disbursements dealt with annually on account of Government by the Imperial Bank of India on behalf of the Reserve Bank of India. At the close of the said ten years the remuneration to be paid by the Reserve Bank of India to the Imperial Bank of India for the performance of these functions shall be revised and the remuneration for the ensuing five years shall be determined on the basis of the actual cost to the Imperial Bank of India, as ascertained by expert accounting investigation, of performing the said functions. The remuneration so determined shall thereafter be subject to revision in like manner at the end of each period of five years so long as this agreement remains in force. If any dispute arises between the Reserve Bank of India and the Imperial Bank of India as to the amount of the said remuneration the matter shall be referred for final decision to the [1][Central Government] who may require from the Imperial Bank such information and may order such accounting investigation [2][as it thinks fit].

3. In consideration of the maintenance by the Imperial Bank of India of branches not less in number than those existing at the commencement of the Reserve Bank of India Act, 1934, the Reserve Bank of India shall, until the expiry of fifteen years from the coming into force of this agreement, make to the Imperial Bank of India the following payments, namely :—

(*a*) during the first five years of this agreement—nine lakhs of rupees per annum ;

(*b*) during the next five years of the agreement—six lakhs of rupees per annum ; and

(*c*) during the next five years of the agreement—four lakhs of rupees per annum.

4. The Imperial Bank of India shall not without the approval of the Reserve Bank of India open any branch in substitution for a branch existing at the time this agreement comes into force.

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[1] Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

[2] Subs. for "as he thinks fit", *ibid.*

THE FOURTH SCHEDULE.

(*See section 47.*)

SCALE OF ADDITIONAL DIVIDEND PAYABLE TO SHAREHOLDERS.

A. If the maximum rate of dividend fixed under section 47 is five per centum and so long as the share capital of the Bank is five crores of rupees—

(1) if the surplus does not exceed four crores of rupees—*Nil.*

(2) if the surplus exceeds four crores of rupees—

(*a*) out of such excess up to the first one and a half crores of rupees—a fraction equal to one-sixtieth ;

(*b*) out of each successive additional excess up to one and a half crores of rupees—one-half of the fraction payable out of the next previous one and a half crores of excess :

Provided that the additional dividend shall be a multiple of one-eighth of one per cent. on the share capital. the amount of the surplus allocated thereto being rounded up or down to the nearest one-eighth of one per cent. on the share capital.

B. If the maximum rate of dividend fixed under section 47 is below five per centum, the said fraction of one-sixtieth shall be increased in the ratio of the difference between six and the fixed rate to unity.

C. When the original share capital of the Bank has been increased or reduced, the said fraction of one-sixtieth shall be increased or diminished in proportion to the increase or reduction of the share capital

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THE FIFTH SCHEDULE.—Rep by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt III, para. 1 and Sch. III.

THE KHADDAR (NAME PROTECTION) ACT, 1934.

ACT NO. VIII OF 1934.[1]

[*13th March, 1934.*]

An Act to regulate the use of the words " Khaddar " and " Khadi " when applied as a trade description of woven materials.

WHEREAS it is expedient to regulate the use of the words " Khaddar " and " Khadi " when applied as a trade description of woven materials; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Khaddar (Name Protection) Act, 1934. Short title, extent and

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1932, Pt V, p. 65 and for Report of Select Committee, *see* Gazette of India, 1933, Pt. V, pp. 255 256.

commencement. (2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) This section shall come into force at once, and section 2 shall come into force in any Province on such date as the [1][Central Government] may, by notification in the [2][Official Gazette], appoint in this behalf.

Words "Khaddar," and "Khadi" to be trade description.

2. The words "Khaddar" and "Khadi", whether in English or in any Indian vernacular language, when applied to any woven material shall be deemed to be a trade description within the meaning of the Indian Merchandise Marks Act, 1889, indicating that such material is cloth woven on hand-looms in India from cotton yarn hand-spun in India. IV of 1889

THE INDIAN FINANCE ACT, 1934.

ACT NO. IX OF 1934.[3]

[29th March, 1934.]

An Act [4]* * * to fix rates of income-tax and super-tax [4]* * * * .

WHEREAS it is expedient [4]* * * to fix rates of income-tax and super-tax [4]* * * ; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Indian Finance Act, 1934.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. [*Fixation of salt duty.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

3. [*Amendments of Schedule II and Schedule III to Act VIII of 1894.*] *Rep. by the Indian Tariff Act, 1934 (XXXII of 1934), s. 13 and Sch. III.*

4. [*Inland postage rates.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

Income-tax and super-tax.

5. (1) Income-tax for the year beginning on the 1st day of April, 1934, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees, by one-fourth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1934, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule increased in each case by one-fourth of the amount of the rate. XI of 1922.

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 90.
[4] Certain words rep. by the Indian Tariff Act, 1934 (32 of 1934), s. 13 and Sch. III, and by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II.

(3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. XI of 1922.

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule XI of 1922.

6. & 7. [*Amendment of section 19, Act X of 1923. Excise duty on silver.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch II.*

SCHEDULE I.—Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s 3 and Sch. II.

SCHEDULE II.

[*See section 5.*]

PART I.

Rates of Income-tax.

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is Rs. 1,000 or upwards, but is less than Rs. 1,500	Two pies in the rupee.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs 2,000	Four pies in the rupee.
(3) When the total income is Rs 2,000 or upwards, but is less than Rs 5,000	Six pies in the rupee.
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs 10,000	Nine pies in the rupee.
(5) When the total income is Rs 10,000 or upwards, but is less than Rs 15,000	One anna in the rupee.
(6) When the total income is Rs 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee.
(7) When the total income is Rs 20,000 or upwards, but is less than Rs 30,000	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and eleven pies in the rupee.
(9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards	Two annas and two pies in the rupee
B. In the case of every company and registered firm, whatever its total income	Two annas and two pies in the rupee.

PART II.

Rates of Super-tax.

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess	Nil.
(b) for every rupee of the remainder of such excess	One anna in the rupee.

	Rate.
(2) (*a*) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess	*Nil.*
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.
(*b*) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.
(*c*) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess . .	Six annas and three pies in the rupee.

PART III

Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue, and such notice shall be deemed to be a notice of demand under section 29 of that Act

2. Any assessee in respect of whom such summary assessment has been made, may, within [illegible]

be final :

1922.

4 The above procedure shall apply also to the assessment and collection during the financial year 1934-35 of incomes of Rs 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1933-34

THE INDIAN STATES (PROTECTION) ACT, 1934.

ACT NO. XI OF 1934.[1]

[20th April, 1934.]

An Act to protect the Administrations of States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to obstruct such Administrations.

WHEREAS it is expedient to protect the Administrations of States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to obstruct such Administrations; It is hereby enacted as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Indian States (Protection) Act, 1934.

(2) It extends[2] to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) This section and sections 2 and 3 shall come into force at once; the remaining sections of this Act shall come into force in any district or area only when and for such time as the [3][Provincial Government], by notification in the [4][Official Gazette], directs.

Conspiracy to overawe administration of a State in India.

2. Whoever, within or without British India, conspires to overawe, by means of criminal force or the show of criminal force, the Administration of any State in India, shall be punished with imprisonment which may extend to seven years, to which fine may be added.

Application of Act XXIII of 1931.

XXIII of 1931. XXIII of 1932. 3. The Indian Press (Emergency Powers) Act, 1931, as amended by the Criminal Law Amendment Act, 1932, shall be interpreted—

(a) as if in sub-section *(1)* of section 4 of the Act, after clause *(i)* the following word and clause were inserted, namely:—

"or

(j) to bring into hatred or contempt or to excite disaffection towards the Administration established in any State in India";

(*b*) as if in Explanation 2 and Explanation 3 to the said sub-section, after the word "Government" the words "or Administration", and after the letter and brackets "(*d*)" the words, letter and brackets "or clause (*j*)" were inserted; and

(*c*) as if after Explanation 4 to the said sub-section the following Explanation were inserted, namely:—

"*Explanation 5.*—Statements of fact made without malicious intention and without attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (*j*) of this sub-section."

[1]* * * * * *

Power to prohibit assemblies.

4. (*1*) When a District Magistrate or in a Presidency-town the Chief Presidency Magistrate is of opinion that within his jurisdiction attempts are being made to promote assemblies of persons for the purpose of proceeding from British India into the territory of a State in India and that the entry of such persons into the said territory or their presence therein is likely or will tend to cause obstruction to the Administration of the said State or danger to human life or safety or a disturbance of the public tranquillity or a riot or an affray within the said territory, he may, by order in writing stating the material facts of the case, prohibit within the area specified in the order the assembly of five or more persons in furtherance of the said purpose.

(*2*) When an order under sub-section (*1*) has been made, and for so long as it remains in force, any assembly of five or more persons held in contravention of the order shall be an unlawful assembly within the meaning of section 141 of the Indian Penal Code, and the provisions of Chapter VIII of the Indian Penal Code and of Chapter IX of the Code of Criminal Procedure, 1898, shall apply accordingly. XLV of 1860. V of 1898.

(*3*) An order under sub-section (*1*) shall be notified by proclamation, published in the specified area in such places and in such manner as the Magistrate may think fit, and a copy of such order shall be forwarded to the [2][Provincial Government].

(*4*) No order under sub-section (*1*) shall remain in force for more than two months from the making thereof, unless the [2][Provincial Government], by notification in the [3][Official Gazette], otherwise directs.

Power to issue directions prohibiting certain acts.

5. (*1*) Where, in the opinion of a District Magistrate or in a Presidency-town the Chief Presidency Magistrate, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by written order stating the material facts of the case and served in the manner provided by section 134 of the Code of Criminal Procedure, 1898, direct any person to abstain from a certain act if such Magistrate considers that such direction is likely to prevent or tends to prevent obstruction to the Administration of a State in India or danger to human life or safety or a disturbance of the public tranquillity or a riot or an affray within the said State. V of 1898.

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[1] The second half of the section was rep. by the A. O.
[2] Subs by the A. O. for "L. G"
[3] Subs. by the A. O. for "Local Official Gazette".

(2) An order under sub-section (1) may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex-parte*.

(3) An order under sub-section (1) may be directed to a particular individual, or to the public generally.

(4) A District Magistrate or Presidency Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under sub-section (1) by himself or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order; and if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

(6) No order under sub-section (1) shall remain in force for more than two months from the making thereof unless the [1][Provincial Government], by notification in the [2][Official Gazette], otherwise directs.

Penalty for disobeying order under section 5.

6. (1) Whoever wilfully disobeys or neglects to comply with any direction contained in an order made under sub-section (1) of section 5, or in such order as altered under sub-section (4) of that section, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(2) An offence under this section shall be an offence for which a police-officer may arrest without warrant.

Cognizance of offences under section 2 by Courts.

7. No Court shall take cognizance of any offence punishable under section 2 unless upon complaint made by order of, or under authority from [3][the Central Government, if the offence is committed outside British India, and the Provincial Government in other cases]

THE SUGAR (EXCISE DUTY) ACT, 1934.

ACT No. XIV OF 1934.[4]

[1st May, 1934.]

An Act to provide for the imposition and collection of an excise duty on sugar.

WHEREAS it is expedient to impose an excise duty on sugar produced in factories and to provide for the collection thereof; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Sugar (Excise Duty) Act, 1934.

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[1] Subs. by the A. O. for "L. G."
[illegible]
"
[illegible] e of India, 1934, Pt. V, p. 67 and for

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "factory" means any premises wherein, or within the precincts of which, twenty or more workers are working or were working on any day of the preceding twelve months, and in any part of which any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on with the aid of power;

(b) "owner" includes any person expressly or impliedly authorised by the owner of a factory to be his agent in respect of such factory;

(c) "sugar" means any form of sugar containing more than ninety per cent. of sucrose;

(d) "*khandsari* sugar" means sugar in the manufacture of which neither a vacuum pan nor a vacuum evaporator is employed; and

(e) "palmyra sugar" means sugar manufactured from jaggery obtained by boiling the juice of the palmyra palm.

Imposition of duty on sugar.

3. (1) A duty of excise shall be levied on all sugar produced in any factory in British India and either issued out of such factory on or after the 1st day of April, 1934, or used within such factory on or after the said date in the manufacture of any commodity other than sugar, and shall be payable by the owner of the factory.

(2) The duty payable under sub-section (1) shall be at the following rates, namely :—

(i) on *khandsari* sugar at the rate of [1][one rupee and five annas] per cwt.;

(1) (ii) on all other sugar except palmyra sugar at the rate of [2][two rupees] per cwt.;

(iii) on palmyra sugar at such rate, if any, as may be fixed in this behalf by the [3][Central Government] after such enquiry as [4][it] may think fit.

Recovery of duty with penalty

4. (1) If any duty payable under section 3 is not paid within the time fixed by rules made in that behalf under this Act, it shall be deemed to be

[1] Subs. by s. 3 of the Indian Finance Act, 1937, for "ten annas".
[2] Subs. by s. 3, *ibid.*, for "one rupee and five annas".
[3] Subs. by the A. O. for "G. G. in C."
[4] Subs. by the A. O. for "he".

(1) Amended by section 3 of the Finance Act (XVI) of 1940, vide pages 79-81 of G.G.I. part IV. of 13-4-1940

an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding double the amount of duty unpaid which such authority may in its discretion think it reasonable to require.

(2) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land revenue and shall be recoverable in addition to, and not in substitution for, any other penalty incurred under this Act.

Issue of sugar from factory.

5. No person shall issue any sugar out of a factory, except in accordance with the provisions of rules made in that behalf under this Act, or, until such rules are made in accordance with the general or special orders of the [1][Central Government].

Power of Central Government to impose customs duty on sugar.

6. (1) The [1][Central Government] may, by notification in the [2][Official Gazette], impose on sugar brought into British India from the territory of any State in India, not being territory which has been declared under section 5 of the Indian Tariff Act, 1894, to be foreign territory for the purposes of that section, a duty of customs equivalent to the excise duty imposed by this Act on sugar produced in British India.

VIII of 1894.

[3]* * * * * *

Penalty for issue of sugar from factory in contravention of section 5.

7. Whoever contravenes the provisions of section 5 shall be punishable with fine which may extend to two thousand rupees

Penalty for evasion of duty or failure to supply information.

8. Whoever evades or attempts to evade the payment of any duty payable by him under this Act, or fails to supply any information which he is required by any rule made under this Act to supply, or knowingly supplies false information, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Power of Courts to order forfeiture of sugar.

9. Any Court trying an offence under this Act may order that any sugar, together with the packages or coverings thereof, in respect of which the Court is satisfied that an offence under this Act has been committed, shall be forfeited to His Majesty.

Application of the provisions of Act VIII of 1878 to the duty on sugar.

10. The [4][Central Government] may, by notification in the [2][Official Gazette], declare that any of the provisions of the Sea Customs Act, 1878, *relating to the levy of and exemption from customs duties, drawback of duty,* warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations as [5][it]

VIII of 1878.

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[1] Subs by the A O for "L. G."
[2] Subs by the A. O for "Gazette of India"
[3] Sub-section (2) was rep. by the Land Customs (Amendment) Act, 1937 (3 of 1937), s. 6 and Sch.
[4] Subs by the A O. for "G. G in C"
[5] Subs by the A. O. for "he".

may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on sugar imposed by section 3.

Power of the Central Government to make rules.

11. *(1)* The [1][Central Government] may, by *notification in the* [2][Official Gazette], make rules[3] to carry into effect the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the assessment and collection of the duty and the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duty shall be payable, and the recovery of arrears;

(*b*) regulate the issue of sugar out of or the use of sugar in the manufacture of commodities within any factory and provide for the appointment of [4][officers of the Crown] to supervise within any factory such issue or use;

(*c*) impose on the owners of factories, and on persons engaged in the sale of sugar, the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;

(*d*) provide for the detention of sugar for the purpose of exacting the duty, the confiscation otherwise than under section 9 of sugar in respect of which breaches of the Act or rules have been committed, and the disposal of sugar so detained or confiscated;

(*e*) authorise and regulate the inspection or search of any place or conveyance used for the manufacture, storage or carriage of sugar; and

(*f*) authorise and regulate the composition of offences against or liabilities incurred under the Act and rules.

(3) In making any rule under this section the [1][Central Government] may provide that a breach of the rule shall, where no other penalty is provided by this Act, be punishable with fine not exceeding two thousand rupees.

[5]* * * * * * *

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[1] Subs. by the A. O. for "G G in C"
[2] Subs. by the A. O. for "Gazette of India".
[3] For such rules, see the Sugar (Excise Duty) Order, 1934 (published in the Gazette of India, Extraordinary, 1934, pp. 119 to 121, and subsequently amended from time to time).
[4] Subs. by the A. O. for "officers of Govt."
[5] Sub section (4) rep. by the A. O.

THE SUGAR-CANE ACT, 1934.

ACT NO. XV OF 1934.[1]

[1st May, 1934.]

An Act to regulate the price of sugar-cane intended for use in sugar factories.

WHEREAS it is expedient, for the purpose of assuring to sugar-cane growers a fair price for their produce, to regulate the price at which sugar-cane intended to be used in the manufacture of sugar may be purchased by or for factories; It is hereby enacted as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Sugar-cane Act, 1934.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) This section shall come into force at once; the remaining sections of this Act shall come into force in any Province on such date as the [2][Provincial Government] may, by notification in the [3][Official Gazette], appoint in that behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "controlled area" means any area specified in a notification issued under sub-section *(1)* of section 3;

(2) "factory" means any premises (including the precincts thereof) wherein twenty or more workers are working or were working on any day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on with the aid of power; and

(3) "sugar" means any form of sugar containing more than ninety per cent. of sucrose.

Declaration of controlled areas, and fixing of prices.

3. *(1)* The [2][Provincial Government] may, by notification in the [3][Official Gazette], declare any area specified in the notification to be a controlled area for the purposes of this Act.

(2) [4]* * * The [2][Provincial Government] may, by notification in the [3][Official Gazette], fix a minimum price or minimum prices for the purchase in any controlled area of sugar-cane intended for use in any factory.

(3) The [2][Provincial Government] may, by notification in the [3][Official Gazette], prohibit in any controlled area the purchase of sugar-cane intended

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1934, Pt. V, p. 72.
[2] Subs. by the A. O. for "L. G."
[3] Subs. by the A. O. for "local official Gazette."
[4] The words "Subject to the control of the G. G. in C." rep. by the A. O.

for use in any factory otherwise than from the grower of the sugar-cane or from a person licensed by the [1][Provincial Government] to act as a purchasing agent.

Previous publication of notifications under section 3.

4. Not less than thirty days before the issue of any notification under sub-section (*1*) or sub-section (*2*) of section 3, the [1][Provincial Government] shall publish in the [2][Official Gazette] and in such other manner (if any) as it thinks fit a draft of the proposed notification specifying a date on or after which the draft will be taken into consideration, and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified.

Penalty for purchase of sugar-cane in contravention of notification under section 3.

5. Whoever in any controlled area purchases any sugar-cane intended for use in a factory at a price less than the minimum price fixed therefor by notification under sub-section (*2*) of section 3 or in contravention of any prohibition made under sub-section (*3*) of section 3 shall be punishable with fine which may extend to two thousand rupees.

Sanction for prosecution under this Act.

6. No Court shall take cognizance of any offence punishable under section 5 except upon complaint made by order of, or under authority from, the District Magistrate.

Power of Provincial Government to make rules.

7. (*1*) The [1][Provincial Government] may, by notification in the [2][Official Gazette], make rules for the purpose of carrying into effect the objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the carrying out of inquiries preliminary to the exercise of the powers conferred by section 3;

(*b*) establishing Advisory Committees for any purpose connected with the administration of this Act and defining the powers, functions and procedure of such Committees;

(*c*) the issue of licences to purchasing agents, the fees for such licences, and the regulation of the purchase and sale of sugar-cane by and to such agents;

(*d*) the organisation of growers of sugar-cane into societies for the sale of sugar-cane to factories;

(*e*) the authorities by which any functions under this Act or the rules made thereunder are to be performed; and

(*f*) the records, registers and accounts to be maintained for ensuring compliance with the provisions of this Act.

(*3*) In making any rule under sub-section (*1*) or under clause (*c*) or clause (*f*) of sub-section (*2*), the [1][Provincial Government] may provide that a breach

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".

of the rule shall, where no other penalty is provided by this Act, be punishable with fine not exceeding two thousand rupees.

8. The [1][Provincial Government] after previous publication may, by notification in the [2][Official Gazette], make rules providing for the exemption of factories or any class of factories from the provisions of this Act. Power of Provincial Government to make rules.

THE MATCHES (EXCISE DUTY) ACT, 1934.

CONTENTS.

SECTIONS.

[1] Subs. by the A. O. for " G. G. in C."
[2] Subs by the A. O. for " Gazette of India ".

Act No. XVI of 1934.[1]

[1st May, 1934.]

An Act to provide for the imposition and collection of an excise duty on matches.

Whereas it is expedient to impose an excise duty on matches, to provide for the collection thereof, and to alter the duty of customs leviable on matches under the Indian Tariff Act, 1894; It is hereby enacted as follows:— VIII of 1

Short title and extent.

1. (*1*) This Act may be called the Matches (Excise Duty) Act, 1934.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "manufactory" means any premises wherein matches are manufactured,

(*b*) "match" includes a firework in the form of a match and, where a matchstick contains more heads than one capable of being ignited by striking, each such head shall be deemed to be a match;

(*c*) "owner" includes any person expressly or impliedly authorised by an owner of a manufactory to be his agent in respect of the manufactory,

(*d*) "splints" means undipped splints such as are ordinarily used for making matches; and

(*e*) "veneers" means veneers such as are ordinarily used for making match-boxes.

Imposition of duty on matches.

3. A duty of excise at the rates specified in section 4 shall be levied on all matches manufactured in any manufactory in British India, and issued out of such manufactory on or after the 1st day of April, 1934, and shall be payable by the owner of the manufactory.

Rates of duty.

4. The duty payable under section 3 shall be levied at the following rates, namely:—

(*a*) on matches in boxes or booklets containing on an average not more than eighty—

(*i*) if the average number is forty or less, at the rate of one rupee per gross of boxes or booklets,

(*ii*) if the average number is more than forty, but not more than sixty, at the rate of one rupee and eight annas per gross of boxes or booklets, and

(*iii*) if the average number is more than sixty, at the rate of two rupees per gross of boxes or booklets, and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1934, Pt. V, p. 70; and for Report of Select Committee, *see ibid.*, pp. 109 and 110.

(*b*) on all other matches, at such rate as the [1][Central Government] may prescribe

Recovery of duty with penalty.

5. (*1*) If any duty payable under section 3 is not paid within the time fixed by rules made in that behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding four times the amount of duty unpaid which such authority may in its discretion think it reasonable to require.

(*2*) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land revenue and shall be recoverable in addition to, and not in substitution for, any other penalty incurred under this Act.

Issue of matches from manufactory.

6. No person shall issue any matches out of a manufactory, except in accordance with the provisions of rules made in that behalf under this Act, or, until such rules are made, in accordance with the general or special orders of the [2][Central Government].

Power of Central Government to prohibit import of matches.

7. The [1][Central Government] may, by notification in the [3][Official Gazette], prohibit absolutely, or with such exceptions as [4][it] thinks fit, the bringing of matches into British India from the territory of any specified Prince or Chief in India.

Power of Central Government to direct use of banderols.

8. (*1*) The [1][Central Government] may, by notification in the [3][Official Gazette], direct that after a date to be specified in the notification no matches manufactured after the date of the issue of the notification shall be issued from a manufactory in British India except in packets, boxes or booklets bearing a banderol or stamp of such nature and affixed in such manner as may be prescribed by rules made under this Act

(*2*) The [1][Central Government] may, by a like notification, direct that, after a date to be specified in the notification, no matches shall be sold or offered or kept for sale in British India except in packets, boxes or booklets bearing such a banderol or stamp so affixed

(*3*) The [1][Central Government] may exempt from the operation of any notification made under sub-section (*1*) matches intended for export from India.

(*4*) The [1][Central Government] may exempt from the operation of any notification made under sub-section (*2*) matches of a particular kind or packed in a particular manner.

Prohibition of manufacture of matches and manufacture and import of splints and veneers.

9. From such date as may be fixed by the [1][Central Government] by notification in the [3][Official Gazette] in this behalf—

(*a*) no person shall manufacture matches or splints or veneers in British India except under and in accordance with a licence to manufacture issued under this Act;

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[1] Subs. by the A. O for "G G in C."
[2] Subs by the A. O. for "L. G."
[3] Subs. by the A. O. for "Gazette of India".
[4] Subs. by the A. O. for "he".

(b) no person shall import splints or veneers into British India except under and in accordance with a licence to import; and

(c) no person shall supply splints or veneers to any person who does not possess a licence to manufacture matches issued under *this Act* nor otherwise than in such manner as may be prescribed by rules made under this Act.

Penalty for issue of matches from manufactory in contravention of section 6

10. Whoever contravenes the provisions of section 6 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for import of matches in contravention of Act.

11. (*1*) Whoever, in contravention of any notification made under section 7, imports, or attempts to import, matches into British India shall be punishable with imprisonment which may extend to six months, or with fine which may extend to four times the amount of the duty which would be payable on the matches if they were liable to duty in British India or to one thousand rupees, whichever is greater, or with both imprisonment and fine.

(2) Whoever abets an offence punishable under sub-section (*1*) shall, whether such offence is or is not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence. XLV of 1860.

Penalty for issue or sale of matches without banderol.

12. (*1*) Whoever, in contravention of any direction made under subsection (*1*) of section 8, issues any matches from any manufactory, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees or to one rupee for every packet, box or booklet of matches in respect of which an offence has been committed, whichever is greater, or with both imprisonment and fine.

(2) Whoever, in contravention of any direction made under sub-section (2) of section 8, sells or offers or keeps for sale any matches shall be punishable with fine which may extend to one thousand rupees or to one rupee for every packet, box or booklet of matches in respect of which an offence has been committed, whichever is greater.

Penalty for manufacture of matches and manufacture and import of splints and veneers without licence

13. Whoever in contravention of the provisions of section 9 manufactures matches or splints or veneers or imports splints or veneers into British India or supplies splints or veneers to any person shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for evasion of duty or failure to supply information.

14. Whoever evades, or attempts to evade, the payment of any duty payable by him under this Act, or fails to supply any information which he is required under this Act or the rules to supply, or knowingly supplies false information, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

15. Any Court trying an offence under this Act may order that any matches, splints or veneers, together with the boxes, packing or wrappings thereof, in respect of which the Court is satisfied that an offence under this Act has been committed, shall be forfeited to His Majesty.

Power of Courts to order forfeiture of matches, splints or veneers.

16. The law for the time being in force relating to Sea Customs and to goods the importation of which is prohibited by section 18 of the Sea Customs Act, 1878, shall apply in respect of matches, splints or veneers, the importation of which is prohibited by or under this Act, and the officers of Customs and the officers empowered under the Sea Customs Act, 1878, to perform the duties imposed by that Act on a Customs-Collector and other officers of Customs shall have the same powers in respect of such matches, splints or veneers as they have for the time being in respect of goods the importation of which is prohibited by section 18 of the Sea Customs Act, 1878.

VIII of 1878. VIII of 1878. VIII of 1878.

Application of Act VIII of 1878 to the importation of matches, splints or veneers

Provided that the penalty for the offence specified in section 167, No 8, of the Sea Customs Act, 1878, shall, where the offence is committed in relation to matches, splints or veneers the importation of which is prohibited by or under this Act, be a penalty of confiscation only, and such penalty of confiscation shall not be inflicted under section 167, No. 8, of the Sea Customs Act, 1878, in any case where the person concerned in the offence is sent for trial under section 11 or section 13 of this Act.

VIII of 1878. VIII of 1878.

17. The [1][Central Government] may, by notification in the [2][Official Gazette], declare that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations as [3][it] may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on matches imposed by section 3

VIII of 1878.

Application of the provisions of Act VIII of 1878 to the duty on matches

18. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[4] to carry into effect the purposes and objects of this Act

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

Power of Central Government to make rules

(*a*) prescribe the rate of duty referred to in clause (*b*) of section 4,

(*b*) provide for the assessment and collection of the duty and the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duty shall be payable, and the recovery of arrears;

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[1] Subs. by the A. O. for "G G. in C"
[2] Subs. by the A. O. for "Gazette of India".
[3] Subs. by the A O. for "he".
[4] For such rules, see the Matches (Excise Duty) Order, 1934 (published in the Gazette of India, Extraordinary, 1934, pp. 121 to 126, and subsequently amended)

(c) provide for the distinguishing of matches, splints or veneers which have been manufactured under licence, of splints or veneers which have been imported under licence and of matches on which duty has been paid, or which are exempt from duty under this Act ;

(d) regulate the issue of matches out of any manufactory and limit the number of matches which may be contained in a box or booklet ;

(e) impose on the owners of manufactories and on persons engaged in the sale of matches the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified ;

(f) provide for the issuing of licences, the form and the conditions of licences, and the fees to be charged therefor ;

(g) regulate the sale of splints and veneers,

(h) provide for the detention of matches for the purpose of exacting the duty, the confiscation, otherwise than under section 15, of matches, splints and veneers in respect of which breaches of the Act or rules have been committed, and the disposal of matches, splints and veneers so detained or confiscated ;

(i) authorise and regulate the inspection or search of any place or conveyance used for the manufacture, storage or carriage of matches, splints or veneers ;

(j) authorise and regulate the composition of offences against, or liabilities incurred under, the Act and rules including composite payments in lieu of duty ; and

(k) prescribe the nature of and the manner of affixing banderols or stamps.

(3) In making any rule under this section the [1][Central Government] may provide that a breach of the rule shall, where no other penalty is provided by this Act, be punishable with imprisonment for any term not exceeding six months, or with fine not exceeding one thousand rupees, or with both imprisonment and fine.

[2]* * * * * * * *

Power of Central Government to provide

19. The [1][Central Government] may, by notification in the [3][Official Gazette], make rules[4] to provide for the grant of a rebate of the duty payable under section 3 on matches manufactured in any manufactory whose daily

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[1] Subs. by the A. O. for " G. G. in C."
[2] Sub-section (4) rep. by the A. O.
[3] Subs. by the A. O. for " Gazette of India ".
[4] For such rules, see Gazette of India, 1934, Pt. I, p. 735

output does not exceed one hundred gross of boxes to the following extent, namely : for rebate of duty.

(*i*) where the average number of matches in a box or booklet is forty or less, a rebate of ten pies per gross of boxes or booklets ;

(*ii*) where the average number of matches in a box or booklet is more than forty but not more than sixty, a rebate of one anna and three pies per gross of boxes or booklets , and

(*iii*) where the average number of matches in a box or booklet is more than sixty, a rebate of one anna and eight pies per gross of boxes or booklets.

20. [*Amendment of the Second Schedule, Act VIII of 1894*] *Rep by the Indian Tariff Act, 1934 (XXXII of 1934), s 13 and Sch. III.*

21. [*Repeal.*] *Rep. by the A. O.*

THE INDIAN DOCK LABOURERS ACT, 1934.

ACT NO. XIX OF 1934.[1]

[*19th August, 1934.*]

An Act to give effect in British India to the Convention concerning the protection against accidents of workers employed in loading and unloading ships.

WHEREAS a Revised Draft Convention concerning the protection against accidents of workers employed in loading or unloading ships was adopted at Geneva on the twenty-seventh day of April, nineteen hundred and thirty-two ;

AND WHEREAS it is expedient to give effect in British India to the said Convention ,

It is hereby enacted as follows .—

1. (*1*) This Act may be called the Indian Dock Labourers Act, 1934. Short title, extent, commencement and application.

(*2*) It extends to the whole of British India.

(*3*) It shall come into force on such date as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint

(*4*) It shall not apply to any ship of war of any nationality.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1933, Pt V, p 195 and for Report of Select Committee, *see* Gazette of India, 1934, Pt V, p 175

[2] Subs by the A. O. for " G. G in C "

[3] Subs. by the A O for " Gazette of India ".

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "the processes" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it; and

(b) "worker" means any person employed in the processes.

Inspectors.

3. (1) The [1][Central Government] may, by notification in the [2][Official Gazette], appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) All Principal Officers of the Mercantile Marine Department shall be Inspectors under this Act, *ex officio*, within the limits of their charges.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, and shall be officially subordinate to such authority as the [1][Central Government] may direct. XLV

Powers of Inspectors.

4. Subject to any rules made in this behalf under section 6, an Inspector may, within the local limits for which he is appointed,—

(a) enter, with such assistants (if any) as he thinks fit, any premises or ship where the processes are carried on;

(b) make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registers and notices, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise any other powers which may be conferred upon him by the regulations made under section 5.

Power to Central Government to make regulations.

5. (1) The [3][Central Government] may make regulations—

(a) providing for the safety of working places on shore and of any regular approaches over a dock, wharf, quay or similar premises which workers have to use for going to or from a working place at which the processes are carried on, and for the lighting and fencing of such places and approaches;

(b) prescribing the nature of the means of access which shall be provided for the use of workers proceeding to or from a ship which is lying alongside a quay, hulk or other vessel;

(c) prescribing the measures to be taken to ensure the safe transport of workers proceeding to or from a ship by water and the conditions to be complied with by the vessels used for the purpose;

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] Subs. by the A. O for "G. G. in C."

(*d*) prescribing the nature of the means of access to be provided for the use of the workers from the deck of a ship to a hold in which the processes are carried on ;

(*e*) prescribing the measures to be taken to protect hatchways accessible to the workers and other openings in a deck which might be dangerous to them ;

(*f*) providing for the efficient lighting of the means of access to ships on which the processes are carried on and of all places on board at which the workers are employed or to which they may be required to proceed :

(*g*) providing for the safety of the workers engaged in removing or replacing hatch coverings and beams used for hatch coverings ;

(*h*) prescribing the measures to be taken to ensure that no hoisting machine or gear, whether fixed or loose, used in connection therewith, is employed in the processes on shore or on board ship unless it is in a safe working condition ;

(*i*) providing for the fencing of machinery, live electric conductors and steam pipes ;

(*j*) regulating the provision of safety appliances on derricks, cranes and winches ;

(*k*) prescribing the precautions to be observed in regard to exhaust and live steam ,

(*l*) requiring the employment of competent and reliable persons to operate lifting or transporting machinery used in the processes, or to give signals to a driver of such machinery, or to attend to cargo falls on winch ends or winch drums, and providing for the employment of a signaller where this is necessary for the safety of the workers ,

(*m*) prescribing the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith ;

(*n*) prescribing the precautions to be taken to facilitate the escape of the workers when employed in a hold or between decks in dealing with coal or other bulk cargo ;

(*o*) prescribing the precautions to be observed in the use of stages and trucks ;

(*p*) prescribing the precautions to be observed when the workers have to work where dangerous or noxious goods are, or have been, stowed or have to deal with or work in proximity to such goods ;

(*q*) providing for the rendering of first-aid to injured workers and removal to the nearest place of treatment ,

(*r*) prescribing the provision to be made for the rescue of immersed workers from drowning ,

(*s*) prescribing the abstracts of this Act and of the regulations required by section 8 ;

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "the processes" includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it; and

(*b*) "worker" means any person employed in the processes.

Inspectors.

3. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(*2*) All Principal Officers of the Mercantile Marine Department shall be Inspectors under this Act, *ex officio*, within the limits of their charges.

(*3*) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code, and shall be officially subordinate to such authority as the [1][Central Government] may direct. XLV of

Powers of Inspectors.

4. Subject to any rules made in this behalf under section 6, an Inspector may, within the local limits for which he is appointed,—

(*a*) enter, with such assistants (if any) as he thinks fit, any premises or ship where the processes are carried on;

(*b*) make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registers and notices, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act; and

(*c*) exercise any other powers which may be conferred upon him by the regulations made under section 5.

Power to Central Government to make regulations

5. (*1*) The [3][Central Government] may make regulations—

(*a*) providing for the safety of working places on shore and of any regular approaches over a dock, wharf, quay or similar premises which workers have to use for going to or from a working place at which the processes are carried on, and for the lighting and fencing of such places and approaches;

(*b*) prescribing the nature of the means of access which shall be provided for the use of workers proceeding to or from a ship which is lying alongside a quay, hulk or other vessel;

(*c*) prescribing the measures to be taken to ensure the safe transport of workers proceeding to or from a ship by water and the conditions to be complied with by the vessels used for the purpose;

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] Subs. by the A. O. for "G. G. in C."

(*d*) prescribing the nature of the means of access to be provided for the use of the workers from the deck of a ship to a hold in which the processes are carried on ;

(*e*) prescribing the measures to be taken to protect hatchways accessible to the workers and other openings in a deck which might be dangerous to them ;

(*f*) providing for the efficient lighting of the means of access to ships on which the processes are carried on and of all places on board at which the workers are employed or to which they may be required to proceed :

(*g*) providing for the safety of the workers engaged in removing or replacing hatch coverings and beams used for hatch coverings ;

(*h*) prescribing the measures to be taken to ensure that no hoisting machine or gear, whether fixed or loose, used in connection therewith, is employed in the processes on shore or on board ship unless it is in a safe working condition ,

(*i*) providing for the fencing of machinery, live electric conductors and steam pipes ,

(*j*) regulating the provision of safety appliances on derricks, cranes and winches ,

(*k*) prescribing the precautions to be observed in regard to exhaust and live steam ,

(*l*) requiring the employment of competent and reliable persons to operate lifting or transporting machinery used in the processes, or to give signals to a driver of such machinery, or to attend to cargo falls on winch ends or winch drums, and providing for the employment of a signaller where this is necessary for the safety of the workers ,

(*m*) prescribing the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith ,

(*n*) prescribing the precautions to be taken to facilitate the escape of the workers when employed in a hold or between decks in dealing with coal or other bulk cargo ;

(*o*) prescribing the precautions to be observed in the use of stages and trucks ;

(*p*) prescribing the precautions to be observed when the workers have to work where dangerous or noxious goods are, or have been, stowed or have to deal with or work in proximity to such goods ;

(*q*) providing for the rendering of first-aid to injured workers and removal to the nearest place of treatment :

(*r*) prescribing the provision to be made for the rescue of immersed workers from drowning ,

(*s*) prescribing the abstracts of this Act and of the regulations required by section 8 ;

(*t*) providing for the submission of notices of accidents and dangerous occurrences and prescribing the forms of such notices, the persons and authorities to whom they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;

(*u*) specifying the persons and authorities who shall be responsible for compliance with regulations made under this Act;

(*v*) defining the circumstances in which and conditions subject to which exemptions from any of the regulations made under this section may be given, specifying the authorities who may grant such exemptions and regulating their procedure;

(*w*) defining the additional powers which Inspectors may exercise under clause (*c*) of section 4; and

(*x*) providing generally for the safety of workers.

(*2*) Regulations made under this section may make special provision to meet the special requirements of any particular port or ports.

(*3*) In making a regulation under this section, the [1][Central Government] may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

Power to Central Government to make rules.

6. [2]* * * The [3][Central Government] may make rules regulating—

(*a*) the inspection of premises or ships where the processes are carried on; and

(*b*) the manner in which Inspectors are to exercise the powers conferred on them by this Act.

General provisions relating to regulations and rules.

7. (*1*) The power to make regulations and rules conferred by sections 5 and 6 is subject to the condition of the regulations and rules being made after previous publication.

(*2*) Regulations and rules shall be published in [4][the Official Gazette].

Abstracts of Act and regulations to be conspicuously posted.

8. There shall be affixed in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the processes are carried on, in English and in the language of the majority of the workers, the abstracts of this Act and of the regulations made thereunder which may be prescribed by the regulations.

Penalties.

9. Any person who—

(*a*) wilfully obstructs an Inspector in the exercise of any power under section 4, or fails to produce on demand by an Inspector any registers or other documents kept in pursuance of the regulations made under this Act, or any gear, fixed or loose, used for the processes, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector, or

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[1] Subs. by the A. O. for "G. G. in C."
[2] The words "Subject to the control of the G. G. in C." rep. by the A. O.
[3] Subs. by the A. O. for "L. G."
[4] Subs. by the A. O. for "the Gazette of India and the local official Gazette, respectively".

(*b*) unless duly authorised, or in case of necessity, removes any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by or under the regulations made under this Act, or

(*c*) having in case of necessity removed any such fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary,

shall be punishable with fine which may extend to five hundred rupees.

10. (*1*) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act or the regulations made thereunder. Provisions relating to jurisdiction.

(*2*) No prosecution for any offence under this Act or the regulations made thereunder shall be instituted except by or with the previous sanction of an Inspector.

(*3*) No Court shall take cognizance of any offence under this Act or the regulations made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

11. The [1][Central Government] may, by notification in the [2][Official Gazette], exempt from all or any of the provisions of this Act and of the regulations made thereunder, on such conditions, if any, as [3][it] thinks fit,— Power to exempt

(*a*) any port or place, dock, wharf, quay or similar premises at which the processes are only occasionally carried on or the traffic is small and confined to small ships, or

(*b*) any specified ship or class of ship.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. Protection to persons acting under this Act.

THE INDIAN CARRIAGE BY AIR ACT, 1934.

ACT NO. XX OF 1934.[4]

[*19th August, 1934.*]

An Act to give effect in British India to a Convention for the unification of certain rules relating to international carriage by air.

WHEREAS a Convention for the unification of certain rules relating to international carriage by air (hereinafter referred to as the Convention) was, on the 12th day of October, 1929, signed at Warsaw ;

[1] Subs by the A. O for " G. G. in C."
[2] Subs by the A. O. for " Gazette of India "
[3] Subs. by the A. O for " he ".
[4] For Statement of Objects and Reasons, *see* Gazette of India, 1934, Pt. V, p. 73 and for Report of Select Committee, *see ibid*, p 180

AND WHEREAS it is expedient that British India should accede to the Convention and should make provision for giving effect to the said Convention in British India ;

AND WHEREAS it is also expedient to make provision for applying the rules contained in the Convention (subject to exceptions, adaptations and modifications) to carriage by air in British India which is not international carriage within the meaning of the Convention :

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Carriage by Air Act, 1934.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date[1] *as the* [2][*Central Government*] may, by notification in the [3][Official Gazette], appoint.

Application of the Convention to British India.

2. (*1*) The rules contained in the First Schedule, being the provisions of the Convention relating to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, shall, subject to the provisions of this Act, have the force of law in British India in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

(*2*) The [2][Central Government] may, by notification in the [3][Official Gazette], certify who are the High Contracting Parties to the Convention, in respect of what territories they are parties, and to what extent they have availed themselves of the Additional Protocol to the Convention, and any such notification shall be conclusive evidence of the matters certified therein.

(*3*) Any reference in the First Schedule to the territory of any High Contracting Party to the Convention shall be construed as a reference to all the territories in respect of which he is a party.

(*4*) Notwithstanding anything contained in the Indian Fatal Accidents Act, 1855, or any other enactment or rule of law in force in any part of British India, the rules contained in the First Schedule shall, in all cases to which those rules apply, determine the liability of a carrier in respect of the death of a passenger, and the rules contained in the Second Schedule shall determine the persons by whom and for whose benefit and the manner in which such liability may be enforced. XIII

(*5*) Any sum in francs mentioned in rule 22 of the First Schedule shall, for the purpose of any action against a carrier, be converted into rupees at the rate of exchange prevailing on the date on which the amount of damages to be paid by the carrier is ascertained by the Court.

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[1] 16th February, 1935, see Gazette of India, 1935, Pt. I, p. 320.
[2] Subs. by the A. O. for " G. G. in C."
[3] Subs. by the A. O. for " Gazette of India".

Provisions regarding suits against High Contracting Parties who undertake carriage by air.

3. (*1*) Every High Contracting Party to the Convention who has not availed himself of the provisions of the Additional Protocol thereto shall, for the purposes of any suit brought in a Court in British India in accordance with the provisions of rule 28 of the First Schedule to enforce a claim in respect of carriage undertaken by him, be deemed to have submitted to the jurisdiction of that Court and to be a person for the purposes of the Code of Civil Procedure, 1908. (1908.)

(*2*) The High Court may make rules of procedure providing for all matters which may be expedient to enable such suits to be instituted and carried on.

(*3*) Nothing in this section shall authorise any Court to attach or sell any property of a High Contracting Party to the Convention.

Application of Act to carriage by air which is not international.

4. The [1][Central Government] may, by notification in the [2][Official Gazette], apply the rules contained in the First Schedule and any provision of section 2 to such carriage by air, not being international carriage by air as defined in the First Schedule, as may be specified in the notification, subject however to such exceptions, adaptations and modifications, if any, as may be so specified.

FIRST SCHEDULE.

(*See section 2*)

RULES.

CHAPTER I.

SCOPE—DEFINITIONS.

1. (*1*) These rules apply to all international carriage of persons, luggage or goods performed by aircraft for reward. They apply also to such carriage when performed gratuitously by an air transport undertaking

(*2*) In these rules " High Contracting Party "means a High Contracting Party to the Convention.

(*3*) For the purposes of these rules the expression " international carriage " means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to the Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of these rules

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[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " Gazette of India ".

(*4*) A carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

2. (*1*) These rules apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(*2*) These rules do not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II.

DOCUMENTS OF CARRIAGE.

Part I.—Passenger ticket.

3. (*1*) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars :—

(*a*) the place and date of issue ,

(*b*) the place of departure, and of destination ;

(*c*) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character ;

(*d*) the name and address of the carrier or carriers ;

(*e*) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(*2*) The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

Part II.—Luggage ticket.

4. (*1*) For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

(*2*) The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The luggage ticket shall contain the following particulars :—

(a) the place and date of issue ;
(b) the place of departure and of destination ,
(c) the name and address of the carrier or carriers ;
(d) the number of the passenger ticket ,
(e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket ;
(f) the number and weight of the packages ;
(g) the amount of the value declared in accordance with rule 22 (2) ;
(h) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(4) The absence, irregularity or loss of the luggage ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set out at (d), (f) and (h) of sub-rule (3), the carrier shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

Part III.—Air consignment note.

5. (1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an " air consignment note " ; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of rule 9, be none the less governed by these rules

6. (1) The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked " for the carrier ", and shall be signed by the consignor. The second part shall be marked " for the consignee ", it shall be signed by the consignor and by the carrier and shall accompany the goods The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign an acceptance of the goods.

(4) The signature of the carrier may be stamped ; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

7. The carrier of goods has the right to require the consignor to make out separate consignment notes when there is more than one package.

8. The air consignment note shall contain the following particulars :—

(a) the place and date of its execution ;
(b) the place of departure and of destination ;

(4) A carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

2. (1) These rules apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(2) These rules do not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II.

Documents of carriage.

Part I.—Passenger ticket.

3. (1) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

(a) the place and date of issue,
(b) the place of departure, and of destination,
(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
(d) the name and address of the carrier or carriers;
(e) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(2) The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

Part II.—Luggage ticket.

4. (1) For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

(2) *The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.*

12. (*1*) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or, by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(*2*) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(*3*) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

(*4*) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

13. (*1*) Except in the circumstances set out in rule 12, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note

(*2*) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive

(*3*) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage

14. The consignor and the consignee can respectively enforce all the rights given them by rules 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15. (*1*) Rules 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(*2*) The provisions of rules 12, 13 and 14 can only be varied by express provision in the air consignment note.

16. (*1*) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the

(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;

(d) the name and address of the consignor;

(e) the name and address of the first carrier;

(f) the name and address of the consignee, if the case so requires;

(g) the nature of the goods;

(h) the number of the packages, the method of packing and the particular marks or numbers upon them;

(i) the weight, the quantity and the volume or dimensions of the goods;

(j) the apparent condition of the goods and of the packing;

(k) the freight, if it has been agreed upon, the date and place of payment and the person who is to pay it;

(l) if the goods are sent for payment on delivery, the price of the goods and, if the case so requires, the amount of the expenses incurred;

(m) the amount of the value declared in accordance with rule 22 (2);

(n) the number of parts of the air consignment note;

(o) the documents handed to the carrier to accompany the air consignment note;

(p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;

(q) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

9. If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in rule 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability.

10. (1) The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

11. (1) The air consignment note is *primâ facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

(2) The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *primâ facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

12. (*1*) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or, by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(*2*) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(*3*) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

(*4*) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13 Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

13. (*1*) Except in the circumstances set out in rule 12, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

(*2*) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(*3*) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage

14. The consignor and the consignee can respectively enforce all the rights given them by rules 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15. (*1*) Rules 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(*2*) The provisions of rules 12, 13 and 14 can only be varied by express provision in the air consignment note.

16. (*1*) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the

consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III.

LIABILITY OF THE CARRIER.

17. *The carrier is liable for* damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

18. (*1*) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

(*2*) The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(*3*) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

19. The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

20. (*1*) The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(*2*) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may exonerate the carrier wholly or partly from his liability.

22. (*1*) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract the carrier and the passenger may agree to a *higher limit of liability.*

(*2*) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(*3*) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(*4*) The sums mentioned in this rule shall be deemed to refer to the French franc consisting of 65½ milligrams gold of millesimal fineness 900.

23. Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these rules shall be null and void, but nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Schedule.

24. (*1*) In the cases covered by rules 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Schedule.

(*2*) In the cases covered by rule 17 the provisions of sub-rule (*1*) also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25. (*1*) The carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as is in the opinion of the Court equivalent to wilful misconduct.

(*2*) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

26. (*1*) Receipt by the person entitled to delivery of luggage or goods without complaint is *primâ facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.

(*2*) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

(*3*) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

(*4*) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

27. In the case of the death of the person liable, an action for damages lies in accordance with these rules against those legally representing his estate.

28. An action for damages must be brought at the option of the plaintiff, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an [illegible] by

consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(*2*) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III.

LIABILITY OF THE CARRIER.

17. The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

18. (*1*) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

(*2*) The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(*3*) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

19. The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

20. (*1*) The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(*2*) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may exonerate the carrier wholly or partly from his liability.

22. (*1*) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract the carrier and the passenger may agree to a higher limit of liability.

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned in this rule shall be deemed to refer to the French franc consisting of 65½ milligrams gold of millesimal fineness 900.

23. Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these rules shall be null and void, but nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Schedule.

24. (1) In the cases covered by rules 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Schedule.

(2) In the cases covered by rule 17 the provisions of sub-rule (1) also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25. (1) The carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as is in the opinion of the Court equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

26. (1) Receipt by the person entitled to delivery of luggage or goods without complaint is *primâ facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

27. In the case of the death of the person liable, an action for damages lies in accordance with these rules against those legally representing his estate.

28. An action for damages must be brought at the option of the plaintiff, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by

which the contract has been made or before the Court having jurisdiction at the place of destination.

29. The right of damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

30. (*1*) In the case of carriage to be performed by various successive carriers and falling within the definition set out in sub-rule (*4*) of rule 1, each carrier who accepts passengers, luggage or goods is subjected to the rules set out in this Schedule, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(*2*) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(*3*) As regards luggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV.

PROVISIONS RELATING TO COMBINED CARRIAGE.

31. (*1*) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Schedule apply only to the carriage by air, provided that the carriage by air falls within the terms of rule 1.

(*2*) Nothing in this Schedule shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Schedule are observed as regards the carriage by air.

CHAPTER V.

GENERAL AND FINAL PROVISIONS.

32. Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule, whether by deciding the law to be applied, or

by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to these rules, if the arbitration is to take place in the territory of one of the High Contracting Parties within one of the jurisdictions referred to in rule 28.

33. Nothing contained in this Schedule shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Schedule.

34. This Schedule does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

35. The expression " days " when used in these rules means current days, not working days.

36. When a High Contracting Party has declared at the time of ratification of or of accession to the Convention that the first paragraph of Article 2 of the Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority, these rules shall not apply to international carriage by air so performed.

SECOND SCHEDULE.

(See section 2)

PROVISIONS AS TO LIABILITY OF CARRIERS IN THE EVENT OF THE DEATH OF A PASSENGER.

1. The liability shall be enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

In this rule the expression " member of a family " means wife or husband, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, child, step-child, grandchild :

Provided that, in deducing any such relationship as aforesaid any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adopters.

2. An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under the last preceding rule enforceable, but only one action shall be brought in British India in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in British India, or, not being domiciled there, express a desire to take the benefit of the action.

[illegible] the amount [illegible] not recovered [illegible] the persons entitled in such [illegible]

[illegible] at any stage [illegible] to be just [illegible] this Act limiting [illegible] have been, or are likely [illegible] death of the passenger [illegible]

[illegible]

[illegible] the Govern-[illegible]

[illegible] of acci-[illegible]

[illegible] the public [illegible]

[illegible] India [illegible]

Power of Central Government to make rules.

5. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[3] regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the authorities by which any of the powers conferred by or under this Act are to be exercised;

(*b*) the licensing, inspection and regulation of aerodromes, the conditions under which aerodromes may be maintained and the fees which may be charged thereat, and the prohibition or regulation of the use of unlicensed aerodromes;

(*c*) the inspection and control of the manufacture, repair and maintenance of aircraft and of places where aircraft are being manufactured, repaired or kept;

(*d*) the registration and marking of aircraft;

(*e*) the conditions under which aircraft may be flown, or may carry passengers, mails or goods; or may be used for industrial purposes and the certificates, licences or documents to be carried by aircraft;

(*f*) the inspection of aircraft for the purpose of enforcing the provisions of this Act and the rules thereunder, and the facilities to be provided for such inspection;

(*g*) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft;

(*h*) the air-routes by which and the conditions under which aircraft may enter or leave British India, or may fly over British India, and the places at which aircraft shall land;

(*i*) the prohibition of flight by aircraft over any specified area, either absolutely or at specified times or subject to specified conditions and exceptions;

(*j*) the supply, supervision and control of air-route beacons, aerodrome lights, and lights at or in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes;

(*k*) the signals to be used for purposes of communication by or to aircraft and the apparatus to be employed in signalling;

(*l*) the prohibition and regulation of the carriage in aircraft of any specified article or substance;

(*m*) the measures to be taken and the equipment to be carried for the purpose of ensuring the safety of life;

(*n*) the issue and maintenance of log-books;

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[1] Subs by the A. O. for "G. G. in C."
[2] Subs by the A. O. for "Gazette of India".
[3] *See* the Indian Aircraft Rules, 1937, published in the Gazette of India, 1937, Pt. I, p. 637 to 719.

(o) the manner and conditions of the issue or renewal of any licence or certificate under the Act or the rules, the examinations and tests to be undergone in connection therewith, the form, custody, production, endorsement, cancellation, suspension or surrender of such licence or certificate, or of any log-book;

(p) the fees to be charged in connection with any inspection, examination, test, certificate or licence, made, issued or renewed under this Act;

(q) the recognition for the purposes of this Act of licences and certificates issued elsewhere than in British India relating to aircraft or to the qualifications of persons employed in the operation, manufacture, repair or maintenance of aircraft, and

(r) any matter subsidiary or incidental to the matters referred to in this sub-section.

Power of Central Government to make orders in emergency.

6. (*1*) If the [1][Central Government] is of opinion that in the interests of the public safety or tranquillity the issue of all or any of the following orders is expedient, [2][it] may, by notification in the [3][Official Gazette],—

(*a*) cancel or suspend, either absolutely or subject to such conditions as [2][it] may think fit to specify in the order, all or any licences or certificates issued under this Act,

(*b*) prohibit, either absolutely or subject to such conditions as [2][it] may think fit to specify in the order, or regulate in such manner as may be contained in the order, the flight of all or any aircraft or class of aircraft over the whole or any portion of British India;

(*c*) prohibit, either absolutely or conditionally, or regulate the erection, maintenance or use of any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, or any class or description thereof; and

(*d*) direct that any aircraft or class of aircraft or any aerodrome, aircraft factory, flying school or club, or place where aircraft are manufactured, repaired or kept, together with any machinery, plant, material or things used for the operation, manufacture, repair or maintenance of aircraft shall be delivered, either forthwith or within a specified time, to such authority and in such manner as [2][it] may specify in the order, to be at the disposal of His Majesty for the public service.

(*2*) Any person who suffers direct injury or loss by reason of any order made under clause (*c*) or clause (*d*) of sub-section (*1*) shall be paid such compensation as may be determined by such authority as the [1][Central Government] may appoint in this behalf.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "he".
[3] Subs. by the A. O. for "Gazette of India".

Power of Central Government to make rules.

5. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[3] regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the authorities by which any of the powers conferred by or under this Act are to be exercised;

(*b*) the licensing, inspection and regulation of aerodromes, the conditions under which aerodromes may be maintained and the fees which may be charged thereat, and the prohibition or regulation of the use of unlicensed aerodromes;

(*c*) the inspection and control of the manufacture, repair and maintenance of aircraft and of places where aircraft are being manufactured, repaired or kept;

(*d*) the registration and marking of aircraft;

(*e*) the conditions under which aircraft may be flown, or may carry passengers, mails or goods; or may be used for industrial purposes and the certificates, licences or documents to be carried by aircraft;

(*f*) the inspection of aircraft for the purpose of enforcing the provisions of this Act and the rules thereunder, and the facilities to be provided for such inspection;

(*g*) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft;

(*h*) the air-routes by which and the conditions under which aircraft may enter or leave British India, or may fly over British India, and the places at which aircraft shall land;

(*i*) the prohibition of flight by aircraft over any specified area, either absolutely or at specified times or subject to specified conditions and exceptions;

(*j*) the supply, supervision and control of air-route beacons, aerodrome lights, and lights at or in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes;

(*k*) the signals to be used for purposes of communication by or to aircraft and the apparatus to be employed in signalling;

(*l*) the prohibition and regulation of the carriage in aircraft of any specified article or substance;

(*m*) the measures to be taken and the equipment to be carried for the purpose of ensuring the safety of life;

(*n*) the issue and maintenance of log-books;

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[1] Subs. by the A. O. for "G. G. in C."

[2] Subs. by the A. O. for "Gazette of India".

[3] *See* the Indian Aircraft Rules, 1937, published in the Gazette of India, 1937, Pt. I, p. 633 to 719.

(2) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[3] regulating all matters incidental or subsidiary to the exercise of this power.

Power of Central Government to make rules for protecting the public health.

[4][8A. The [1][Central Government] may, by notification in the [2][Official Gazette], make rules for the prevention of danger arising to the public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome and in particular and without prejudice to the generality of this provision may make, with respect to aircraft and aerodromes or any specified aerodrome, rules providing for any of the matters for which rules under sub-clauses (i) to (viii) of clause (p) of sub-section (1) of section 6 of the Indian
XV of 1908. Ports Act, 1908, may be made with respect to vessels and ports.]

Wreck and salvage.

9. (1) The provisions of Part VII of the Indian Merchant Shipping Act,
XXI of 1923. 1923, relating to Wreck and Salvage shall apply to aircraft on or over the sea or tidal waters as they apply to ships, and the owner of an aircraft shall be entitled to a reasonable reward for salvage services rendered by the aircraft in like manner as the owner of a ship.

(2) The [1][Central Government] may, by notification in the [2][Official Gazette], make such modifications of the said provisions in their application to aircraft as appear necessary or expedient.

Penalty for act in contravention of rule made under this Act.

10. In making any rule under section 5, section 7, [5][section 8 or section 8A] the [1][Central Government] may direct that a breach of it shall be punishable with imprisonment for any term not exceeding three months, or with fine of any amount not exceeding one thousand rupees, or with both.

Penalty for flying so as to cause danger.

11. Whoever wilfully flies any aircraft in such a manner as to cause danger to any person or to any property on land or water or in the air shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for abetment of offences and attempted offences.

12. Whoever abets the commission of any offence under this Act or the rules, or attempts to commit such offence, and in such attempt does any act towards the commission of the offence, shall be liable to the punishment provided for the offence.

Power of Court to order forfeiture.

13. Where any person is convicted of an offence punishable under any rule made under clause (i) or clause (l) of sub-section (2) of section 5, the Court by which he is convicted may direct that the aircraft or article or substance, as the case may be, in respect of which the offence has been committed, shall be forfeited to His Majesty.

Rules to be made after publication.

14. Any power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication for a period of not less than three months.

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[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " Gazette of India ".
[3] *See*, for instance, rule 18 of the Indian Aircraft Rules, 1937 (Gazette of India, 1937, Pt. I, p. 640).
[4] Ins. by the Indian Aircraft (Amendment) Act, 1936 (7 of 1936), s. 2.
[5] Subs. by the Indian Aircraft (Amendment) Act, 1936 (7 of 1936), s. 3, for " or section 8 ".

(3) The [1][Central Government] may authorise such steps to be taken to secure compliance with any order made under sub-section (1) as appear to [2][it] to be necessary.

(4) Whoever knowingly disobeys, or fails to comply with, or does any act in contravention of, an order made under sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and the Court by which he is convicted may direct that the aircraft or thing (if any) in respect of which the offence has been committed, or any part of such thing, shall be forfeited to His Majesty.

Power of Central Government to make rules for investigation of accidents.

7. (1) The [1][Central Government] may, by notification in the [3][Official Gazette], make rules[4] providing for the investigation of any accident arising out of or in the course of air navigation in or over British India.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) require notice to be given of any accident in such manner and by such person as may be prescribed;

(b) apply for the purposes of such investigation, either with or without modification, the provisions of any law for the time being in force relating to the investigation of accidents;

(c) prohibit pending investigation access to or interference with aircraft to which an accident has occurred, and authorise any person so far as may be necessary for the purposes of an investigation to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft; and

(d) authorise or require the cancellation, suspension, endorsement or surrender of any licence or certificate granted or recognised under this Act when it appears on an investigation that the licence ought to be so dealt with, and provide for the production of any such licence for such purpose.

Power to detain aircraft.

8. (1) Any authority authorised in this behalf by the [1][Central Government] may detain any aircraft, if in the opinion of such authority—

(a) having regard to the nature of an intended flight, the flight of such aircraft would involve danger to persons in the aircraft or to any other persons or property; or

(b) such detention is necessary to secure compliance with any of the provisions of this Act or the rules applicable to such aircraft; or such detention is necessary to prevent a contravention of any rule made under clause (h) or clause (i) of sub-section (2) of section 5.

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[1] Subs. by the A. O. for "G. G in C."
[2] Subs. by the A. O for "him".
[3] Subs. by the A. O. for "Gazette of India".
[4] *See* Pt. X of the Indian Aircraft Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 661 to 665.

(2) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[3] regulating all matters incidental or subsidiary to the exercise of this power.

[4][**8A.** The [1][Central Government] may, by notification in the [2][Official Gazette], make rules for the prevention of danger arising to the public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome and in particular and without prejudice to the generality of this provision may make, with respect to aircraft and aerodromes or any specified aerodrome, rules providing for any of the matters for which rules under sub-clauses (*i*) to (*viii*) of clause (*p*) of sub-section (*1*) of section 6 of the Indian Ports Act, 1908, may be made with respect to vessels and ports.] Power of Central Government to make rules for protecting the public health. XV of 1908.

9. (*1*) The provisions of Part VII of the Indian Merchant Shipping Act, 1923, relating to Wreck and Salvage shall apply to aircraft on or over the sea or tidal waters as they apply to ships, and the owner of an aircraft shall be entitled to a reasonable reward for salvage services rendered by the aircraft in like manner as the owner of a ship. Wreck and salvage. XXI of 1923.

(2) The [1][Central Government] may, by notification in the [2][Official Gazette], make such modifications of the said provisions in their application to aircraft as appear necessary or expedient.

10. In making any rule under section 5, section 7, [5][section 8 or section 8A] the [1][Central Government] may direct that a breach of it shall be punishable with imprisonment for any term not exceeding three months, or with fine of any amount not exceeding one thousand rupees, or with both. Penalty for act in contravention of rule made under this Act

11. Whoever wilfully flies any aircraft in such a manner as to cause danger to any person or to any property on land or water or in the air shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Penalty for flying so as to cause danger.

12. Whoever abets the commission of any offence under this Act or the rules, or attempts to commit such offence, and in such attempt does any act towards the commission of the offence, shall be liable to the punishment provided for the offence. Penalty for abetment of offences and attempted offences.

13. Where any person is convicted of an offence punishable under any rule made under clause (*i*) or clause (*l*) of sub-section (*2*) of section 5, the Court by which he is convicted may direct that the aircraft or article or substance, as the case may be, in respect of which the offence has been committed, shall be forfeited to His Majesty. Power of Court to order forfeiture.

14. Any power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication for a period of not less than three months. Rules to be made after publication.

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[1] Subs. by the A. O. for " G. G. in C."

[2] Subs by the A. O. for " Gazette of India ".

[3] *See*, for instance, rule 18 of the Indian Aircraft Rules, 1937 (Gazette of India, 1937, Pt I, p. 640).

[4] Ins. by the Indian Aircraft (Amendment) Act, 1936 (7 of 1936), s. 2.

[5] Subs. by the Indian Aircraft (Amendment) Act, 1936 (7 of 1936), s 3, for " or section 8 ".

Use of patented invention on aircraft not required in British India

15. The provisions of section 42 of the Indian Patents and Designs Act, 1911, shall apply to the use of an invention on any aircraft not registered in British India in like manner as they apply to the use of an invention in a foreign vessel. II of 19

Power to apply customs procedure.

16. The [1][Central Government] may, by notification in the [2][Official Gazette], declare that any or all of the provisions of the Sea Customs Act, 1878, shall, with such modifications and adaptations as may be specified in the notification, apply to the import and export of goods by air. VIII of

Bar of certain suits.

17. No suit shall be brought in any Civil Court in respect of trespass or in respect of nuisance by reason only of the flight of aircraft over any property at a height above the ground which having regard to wind, weather and all the circumstances of the case is reasonable, or by reason only of the ordinary incidents of such flight.

Saving for acts done in good faith under the Act.

18. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Saving of application of Act.

19. (*1*) Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any aircraft belonging to or exclusively employed in His Majesty's naval, military or air forces, or to any person in such forces employed in connection with such aircraft.

(*2*) Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any lighthouse to which the Indian Lighthouse Act, 1927, applies or prejudice or affect any right or power exercisable by any authority under that Act. XVII of

20. [*Repeals.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE MECHANICAL LIGHTERS (EXCISE DUTY) ACT, 1934.

ACT NO. XXIII OF 1934.[3]

[*19th August, 1934.*]

An Act to provide for the imposition and collection of an excise duty on mechanical lighters.

WHEREAS it is expedient to impose an excise duty on mechanical lighters, to provide for the collection thereof, and to alter the duty of customs leviable on mechanical lighters under the Indian Tariff Act, 1894; It is hereby enacted as follows:— VIII of

Short title and extent.

1. (*1*) This Act may be called the Mechanical Lighters (Excise Duty) Act, 1934.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".
[3] For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 117 and for Report of Select Committee, see ibid., pp. 185 and 186.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) "manufactory" means any premises wherein mechanical lighters are manufactured ;

(b) "mechanical lighter" means any mechanical or chemical contrivance for causing ignition which is portable and which operates by producing a spark or flame whether by itself or when brought into contact with gas, and includes a mechanical lighter issued from a manufactory in an incomplete state or requiring for its completion the addition of a flint ; and

(c) "owner" includes any person expressly or impliedly authorised by an owner of a manufactory to be his agent in respect of the manufactory.

3. A duty of excise at the rate of one rupee and eight annas per lighter shall be levied on every mechanical lighter manufactured in any manufactory in British India and issued out of such manufactory after the commencement of this Act, and shall be payable by the owner of the manufactory. Imposition of duty.

4. (1) If any duty payable under section 3 is not paid within the time fixed by rules made in that behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding three times the amount of duty unpaid which such authority may in its discretion think it reasonable to require. Recovery of duty with penalty.

(2) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land revenue and shall be recoverable in addition to, and not in substitution for, any other penalty incurred under this Act.

5. No person shall issue any mechanical lighter out of a manufactory, except in accordance with the provisions of rules made in that behalf under this Act, or, until such rules are made, in accordance with the general or special orders of the [1][Central Government]. Issue from manufactory.

6. The [2][Central Government] may, by notification in the [3][Official Gazette], prohibit absolutely, or with such exceptions as [4][it] thinks fit, the bringing of mechanical lighters into British India from the territory of any specified Prince or Chief in India. Power of Central Government to prohibit import.

7. From such date[5] as may be fixed by the [2][Central Government] by notification in the [3][Official Gazette] in this behalf, no person shall manufacture mechanical lighters in British India except under and in accordance with a licence to manufacture issued under this Act. Prohibition of manufacture without licence.

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[1] Subs. by the A. O. for "L. G"
[2] Subs by the A. O. for "G G. in C."
[3] Subs by the A. O for "Gazette of India".
[4] Subs. by the A O. for "he".
[5] 1st October, 1934 : *see* Gazette of India, 1934, Pt. I, p. 1144.

Penalty for issue from manufactory in contravention of section 5.

8. Whoever contravenes the provisions of section 5 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for import in contravention of Act.

9. (*1*) Whoever, in contravention of any notification made under section 6, imports, or attempts to import, mechanical lighters into British India, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to three times the amount of the duty which would be payable on the mechanical lighters if they were liable to duty in British India or to one thousand rupees, whichever is greater, or with both imprisonment and fine.

(*2*) Whoever abets an offence punishable under sub-section (*1*) shall, whether such offence is or is not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence. XLV of 18[illegible]

Penalty for manufacture without licence.

10. Whoever, without a licence to manufacture, or in contravention of the terms of such licence, manufactures mechanical lighters, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for evasion of duty or failure to supply information.

11. Whoever evades, or attempts to evade, the payment of any duty payable by him under this Act, or fails to supply any information which he is required under this Act or the rules to supply, or knowingly supplies false information, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Power of Courts to order forfeiture.

12. Any Court trying an offence under this Act may order that any mechanical lighters, together with the boxes, packing or wrappings thereof, in respect of which the Court is satisfied that an offence under this Act has been committed, shall be forfeited to His Majesty.

Application of Act VIII of 1878 to the importation of mechanical lighters.

13. The law for the time being in force relating to Sea Customs and to goods the importation of which is prohibited by section 18 of the Sea Customs Act, 1878, shall apply in respect of mechanical lighters the importation of which is prohibited by notification made under section 6 of this Act, and the officers of Customs and the officers empowered under the Sea Customs Act, 1878, to perform the duties imposed by that Act on a Customs-Collector and other officers of Customs shall have the same powers in respect of such mechanical lighters as they have for the time being in respect of goods the importation of which is prohibited by section 18 of the Sea Customs Act, 1878: VIII of 187[illegible]

Provided that the penalty for the offence specified in section 167, No. 8, of the Sea Customs Act, 1878, shall, where the offence is committed in relation to mechanical lighters the importation of which is prohibited under section 6 of this Act, be a penalty of confiscation only, and such penalty of confiscation shall not be inflicted under section 167, No. 8, of the Sea Customs Act, 1878, in any case where the person concerned in the offence is sent for trial under section 9 of this Act. VIII of 187[illegible]

VIII of 1878. **14.** The [1][Central Government] may, by notification in the [2][Official Gazette], declare that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as [3][it] may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty imposed by section 3. Application of the provisions of Act VIII of 1878 to the duty on mechanical lighters.

15. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[4] to carry into effect the purposes and objects of this Act. Power of Central Government to make rules.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the assessment and collection of the duty and the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duty shall be payable, and the recovery of arrears;

(*b*) provide for the distinguishing of mechanical lighters which have been manufactured under licence, or on which duty has been paid, or which are exempt from duty under this Act;

(*c*) regulate the issue of mechanical lighters out of any manufactory;

(*d*) impose on the owners of manufactories and on persons engaged in the sale of mechanical lighters the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified,

(*e*) provide for the issuing of licences, the form and the conditions of licences, and the fees to be charged therefor;

(*f*) provide for the detention of mechanical lighters for the purpose of exacting the duty, the confiscation, otherwise than under section 12, of articles in respect of which breaches of the Act or rules have been committed, and the disposal of articles so detained or confiscated,

(*g*) authorise and regulate the inspection or search of any place or conveyance used for the manufacture, storage or carriage of mechanical lighters, and

(*h*) authorise and regulate the composition of offences against, or liabilities incurred under, the Act and rules, including composite payments in lieu of duty.

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[1] Subs. by the A. O for "G. G. in C."
[2] Subs by the A. O. for "Gazette of India".
[3] Subs. by the A O. for "he".
[4] For such rules, *see* the Mechanical Lighters (Excise Duty) Order, 1934, published in Gazette of India, 1934, Pt. I, p. 1141.

(3) In making any rule under this section the [1][Central Government] may provide that a breach of the rule shall, where no other penalty is provided by this Act, be punishable with imprisonment for any term not exceeding six months, or with fine not exceeding one thousand rupees, or with both imprisonment and fine.

[2]* * * * * *

16. [*Amendment of the Second Schedule, Act VIII of 1894.*] *Rep. by the Repealing and Amending Act, 1935 (XII of 1935), s. 3 and Sch. II.*

THE FACTORIES ACT, 1934.

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ACT NO. XXV OF 1934[1].

[20th August, 1934.]

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Factories Act, 1934. Short title, extent and commencement.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the 1st day of January, 1935.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "adolescent" means a person who has completed his fifteenth but has not completed his seventeenth year;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1933, Pt. V, pp. 175 and 176 and for Report of Select Committee, *see ibid.*, 1934, Pt. V, pp. 44 and 45.

This Act is supplemented in the C. P. by the C. P. Unregulated Factories Act, 1937 (C. P. 21 of 1937).

(*Chapter I.—Preliminary.*)

(*b*) "adult" means a person who has completed his seventeenth year;

(*c*) "child" means a person who has not completed his fifteenth year;

(*d*) "day" means a period of twenty-four hours beginning at midnight;

(*e*) "week" means a period of seven days beginning at midnight on Saturday night;

(*f*) "power" means electrical energy, and any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(*g*) "manufacturing process" means any process—

(i) for making, altering, repairing, ornamenting, finishing or packing, or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal, or

(ii) for pumping oil, water or sewage, or

(iii) for generating, transforming or transmitting power;

(*h*) "worker" means a person employed, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or connected with the subject of the manufacturing process, but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on;

(*j*) "factory" means any premises including the precincts thereof whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Indian Mines Act, 1923; IV of 1923.

(*k*) "machinery" includes all plant whereby power is generated, transformed, transmitted or applied;

(*l*) "occupier" of a factory means the person who has ultimate control over the affairs of the factory:

Provided that where the affairs of a factory are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(*m*) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay", and the period or periods for which it works is called a "shift"; and

(*n*) "prescribed" means prescribed by rules made by the [1][Provincial Government] under this Act.

[1] Subs. by the A. O. for "L. G."

(*Chapter I.—Preliminary.*)

3. Reference to time of day in this Act are references— **References to time of day.**

(*a*) in British India [1]* *, to Indian Standard Time, which is five and a half hours ahead of Greenwich Mean Time, and

[1]* * * * * *

Provided that for any area in British India in which Indian Standard Time is not ordinarily observed the [2][Provincial Government] may make rules—

(*i*) specifying the area,

(*ii*) defining the local mean time ordinarily observed therein, and

(*iii*) permitting such time to be observed in all or any of the factories situated in the area.

4. (*1*) For the purposes of this Act, a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, the decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including *gur*) or tea, or any manufacturing process which is incidental to or connected with any of the aforesaid processes, is a seasonal factory. **Seasonal factories.**

Provided that the [2][Provincial Government] may, by notification in the [3][Official Gazette], declare any such factory in which manufacturing processes are ordinarily carried on for more than one hundred and eighty working days in the year, not to be a seasonal factory for the purposes of this Act.

(*2*) The [2][Provincial Government] may, by notification in the [3][Official Gazette], declare any specified factory in which manufacturing processes are ordinarily carried on for not more than one hundred and eighty working days in the year and cannot be carried on except during particular seasons or at times dependent on the irregular action of natural forces, to be a seasonal factory for the purposes of this Act.

5. (*1*) Notwithstanding anything contained in clause (*j*) of section 2, the [2][Provincial Government] may, by notification in the [3][Official Gazette], declare any [4][place wherein] a manufacturing process is carried on whether with or without the aid of power and [5][wherein] on any one day of the twelve months preceding the notification, ten or more workers were employed, to be a factory for all or any of the purposes of this Act. **Power to declare premises to be factories.**

(*2*) A notification under sub-section (*1*) may be made in respect of any specified [6][place or class of places].

(*3*) A notification under sub-section (*1*) shall cease to have effect in respect of any [7][place] after the lapse of twelve months during which not more than nine workers were employed [8][therein] on any day.

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[1] The words "excluding Burma" in cl (*a*), and cl. (*b*), were rep by the A O

[2] Subs. by the A O for "L. G."

[3] Subs by the A O for "local official Gazette".

[4] [illegible] "premises whereon

[illegible]

(Chapter I.—Preliminary. Chapter II.—The Inspecting Staff.)

Power to declare departments to be separate factories.

6. The [1][Provincial Government] may, by order in writing, direct that the different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

Power to exempt on a change in the factory.

7. Where the [1][Provincial Government] is satisfied that, following upon a change of occupier of a factory or in the manufacturing processes carried on therein, the number of workers for the time being working in the factory is less than twenty and is not likely to be twenty or more on any day during the ensuing twelve months, it may, by order in writing, exempt such factory from the operation of this Act:

Provided that any exemption so granted shall cease to have effect on and after any day on which twenty or more workers work in the factory.

Power to exempt during public emergency.

8. In any case of public emergency the [2][Provincial Government] may, by notification in the [3][Official Gazette], exempt any factory from any or all of the provisions of this Act for such period as [4][it] may think fit.

Notice to Inspector before commencement of work.

9. (*1*) Before work is begun in any factory after the commencement of this Act, or before work is begun in any seasonal factory each season, the occupier shall send to the Inspector a written notice containing—

(*a*) the name of the factory and its situation,

(*b*) the address to which communications relating to the factory should be sent,

(*c*) the nature of the manufacturing processes to be carried on in the factory,

(*d*) the nature and amount of the power to be used, and

(*e*) the name of the person who shall be the manager of the factory for the purposes of this Act.

(*2*) Whenever another person is appointed as manager, the occupier shall send to the Inspector a written notice of the change, within seven days from the date in which the new manager assumes charge.

(*3*) During any period for which no person has been designated as manager of a factory under this section, or during which the person designated does not manage the factory, any person found acting as manager, or, if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

CHAPTER II.

THE INSPECTING STAFF.

Inspectors.

10. (*1*) The [1][Provincial Government] may, by notification in the [5][Official Gazette], appoint such persons as it thinks fit to be Inspectors for the

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purposes of this Act within such local limits as it may assign to them respectively.

(*2*) The [1][Provincial Government] may, by notification as aforesaid, appoint any person to be a Chief Inspector, who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the Province.

(*3*) No person shall be appointed to be an Inspector under sub-section (*1*) or a Chief Inspector under sub-section (*2*) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(*4*) Every District Magistrate shall be an Inspector for his district.

(*5*) The [1][Provincial Government] may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(*6*) In any area where there are more Inspectors than one, the [1][Provincial Government] may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise, and the Inspector to whom the prescribed notices are to be sent

(*7*) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code and shall be officially subordinate to such authority as the [1][Provincial Government] may specify in this behalf.

XLV of 1860.

11. Subject to any rules made by the [1][Provincial Government] in this behalf, an Inspector may, within the local limits for which he is appointed,— Powers of Inspector.

(*a*) enter, with such assistants (if any), being persons [2][in the service of the Crown] or of any municipal or other public authority, as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory or capable of being declared to be a factory under the provisions of section 5 ;

(*b*) make such examination of the premises and plant and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act , and

(*c*) exercise such other powers as may be necessary for carrying out the purposes of this Act ·

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

12. (*1*) The [1][Provincial Government] may appoint such registered medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively. Certifying surgeons.

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[1] Subs by the A. O for "L. G "

[2] Subs. by the A O for " in the employment of Govt."

Power to declare departments to be separate factories.

6. The [1][Provincial Government] may, by order in writing, direct that the different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

Power to exempt on a change in the factory.

7. Where the [1][Provincial Government] is satisfied that, following upon a change of occupier of a factory or in the manufacturing processes carried on therein, the number of workers for the time being working in the factory is less than twenty and is not likely to be twenty or more on any day during the ensuing twelve months, it may, by order in writing, exempt such factory from the operation of this Act:

Provided that any exemption so granted shall cease to have effect on and after any day on which twenty or more workers work in the factory.

Power to exempt during public emergency.

8. In any case of public emergency the [2][Provincial Government] may, by notification in the [3][Official Gazette], exempt any factory from any or all of the provisions of this Act for such period as [4][it] may think fit.

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(*d*) the nature and amount of the power to be used, and

(*e*) the name of the person who shall be the manager of the factory for the purposes of this Act.

(2) Whenever another person is appointed as manager, the occupier shall send to the Inspector a written notice of the change, within seven days from the date in which the new manager assumes charge.

(3) During any period for which no person has been designated as manager of a factory under this section, or during which the person designated does not manage the factory, any person found acting as manager, or, if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

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Powers of Inspector.

11. Subject to any rules made by the [1][Provincial Government] in this behalf, an Inspector may, within the local limits for which he is appointed,—

(*a*) enter, with such assistants (if any), being persons [2][in the service of the Crown] or of any municipal or other public authority, as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory or capable of being declared to be a factory under the provisions of section 5;

(*b*) make such examination of the premises and plant and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and

(*c*) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

Certifying surgeons.

12. (*1*) The [1][Provincial Government] may appoint such registered medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively.

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Provided that any exemption so granted shall cease to have effect on and after any day on which twenty or more workers work in the factory.

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(*Chapter III.—Health and Safety.*)

(*b*) regulating the methods used for artificially increasing the humidity of the air; and

(*c*) directing prescribed tests for determining the humidity and cooling properties of the air to be carried out and recorded.

(*2*) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply or other source of drinking water, or shall be effectively purified before it is so used.

(*3*) If it appears to the Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (*2*) is not effectively purified, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

16. If it appears to the Chief Inspector or to an Inspector specially authorised in this behalf by the [1][Provincial Government] that the cooling properties of the air in any factory are at times insufficient to secure workers against injury to health or against serious discomfort, and that they can be to a great extent increased by measures which will not involve an amount of expense which is unreasonable in the circumstances, the Chief Inspector may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date. Cooling.

17. In order that no room in a factory shall be crowded during working hours to a dangerous extent or to an extent which may be injurious to the health of the workers, the proportion which the number of cubic feet of space in a room and the number of superficial feet of its floor area bears to the number of workers working at any time therein shall not be less than such standards as may be prescribed either generally or for the particular class of work carried on in the room. Overcrowding.

18. (*1*) A factory shall be sufficiently lighted during all working hours. Lighting.

(*2*) If it appears to the Inspector that any factory is not sufficiently lighted, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(*3*) The [1][Provincial Government] may make rules requiring that all factories of specified classes shall be lighted in accordance with prescribed standards.

19. (*1*) In every factory a sufficient supply of water fit for drinking shall be provided for the workers at suitable places. Water.

(*2*) The supply required by sub-section (*1*) shall comply with such standards as may be prescribed.

(*3*) In every factory in which any process involving contact by the workers with injurious or obnoxious substances is carried on, a sufficient supply of

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[1] Subs by the A O for "L. G"

(2) A certifying surgeon may authorise any registered medical practitioner to exercise any of his powers under this Act:

Provided that a certificate of fitness for employment granted by such authorised practitioner shall be valid for a period of three months only, unless it is confirmed by the certifying surgeon himself after examination of the person concerned.

Explanation.—In this section a "registered medical practitioner" means any person registered under the Medical Act, 1858, or any subsequent enactment amending it, or under any Act of any legislature in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such register is maintained, any person declared by the [1][Provincial Government], by notification in the [2][Official Gazette], to be a registered medical practitioner for the purposes of this section. 21 & 22 Vict., c. 90.

CHAPTER III.

HEALTH AND SAFETY.

Cleanliness. **13.** Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and shall be cleansed at such times and by such methods as may be prescribed, and these methods may include lime-washing or colour-washing, painting, varnishing, disinfecting and deodorising.

Ventilation. **14.** (1) Every factory shall be ventilated in accordance with such standards and by such methods as may be prescribed.

(2) Where gas, dust or other impurity is generated in the course of work, adequate measures shall be taken to prevent injury to the health of workers.

(3) If it appears to the Inspector that in any factory gas, dust or other impurity generated in the course of work is being inhaled by the workers to an injurious extent, and that such generation or inhalation could be prevented by the use of mechanical or other devices, he may serve on the manager of the factory an order in writing, directing that mechanical or other devices for preventing such generation or inhalation shall be provided before a specified date, and shall thereafter be maintained in good order and used throughout working hours.

(4) The [1][Provincial Government] may make rules for any class of factories requiring mechanical or other devices to be provided and maintained for preventing the generation or inhalation of gas, dust or other impurities, which may be injurious to workers and specifying the nature of such devices.

Artificial humidification. **15.** (1) The [1][Provincial Government] may make rules—

(a) prescribing standards for the cooling properties of the air in factories in which the humidity of the air is artificially increased;

[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".

necessarily exposed for the purpose of cleaning or lubricating or altering the gearing or arrangements of the machinery.

(4) Such further provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery in a factory.

Power to require specifications of defective parts or tests of stability.

25. If it appears to the Inspector that any building or part of a building, or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(b) to carry out such tests as may be necessary to determine the strength or quality of any specified parts and to inform the Inspector of the results thereof

Safety of buildings and machinery.

26. (1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

Restrictions on work near machinery in motion.

27. (1) No woman or child shall be allowed to clean or oil any part of the machinery of a factory while that part is in motion under power, or to work between moving parts or between fixed and moving parts of any machinery which is in motion under power

(2) The [1][Provincial Government] may, by notification in the [2][Official Gazette], prohibit, in any specified factory or class of factories, the cleaning or oiling by any person of specified parts of machinery when these parts are in motion under power.

Power to exclude children.

28. (1) The [1][Provincial Government] may make rules prohibiting the admission to any specified class of factories, or to specified parts thereof, of children who cannot be lawfully employed therein.

(2) If it appears to the Inspector that the presence in any factory or part of a factory of children who cannot be lawfully employed therein may be dangerous to them or injurious to their health, he may serve on the manager

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[1] Subs. by the A. O for " L. G."
[2] Subs. by the A. O for " local official Gazette ".

(*Chapter III.—Health and Safety.*)

water suitable for washing shall be provided for the use of workers, at suitable places and with facilities for its use, according to such standards as may be prescribed.

Latrines and urinals.

20. For every factory sufficient latrines and urinals, according to the prescribed standards, shall be provided, for male workers and for female workers separately, of suitable patterns and at convenient places as prescribed, and shall be kept in a clean and sanitary condition during all working hours.

Doors to open outwards.

21. In every factory the doors of each room in which more than twenty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards, or, where the door is between two rooms, in the direction of the nearest exit from the building, and no such door shall be locked or obstructed while any work is being carried on in the room.

Precautions against fire.

22. In every factory such precautions against fire shall be taken as may be prescribed.

Means of escape.

23. (*1*) Every factory shall be provided with such means of escape in case of fire as can reasonably be required in the circumstances of each factory.

(*2*) If it appears to the Inspector that any factory is not so provided, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(*3*) The means of escape shall not be obstructed while any work is being carried on in the factory.

Fencing.

24. (*1*) In every factory the following shall be kept adequately fenced, namely :—

(*a*) every exposed moving part of a prime-mover and every flywheel directly connected to a prime-mover,

(*b*) every hoist or lift, hoist-well or lift-well, and every trap-door or similar opening near which any person may have to work or pass, and

(*c*) every part of the machinery which the [1][Provincial Government] may prescribe.

(*2*) If it appears to the Inspector that any other part of the machinery in a factory is dangerous if not adequately fenced, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(*3*) All fencing required by or under this section or under sub-section (*1*) of section 26 shall be maintained in an efficient state at all times when the workers have access to the parts required to be fenced except where they are under repair or are under examination in connection with repair or are

[1] Subs by the A. O. for "L. G."

necessarily exposed for the purpose of cleaning or lubricating or altering the gearing or arrangements of the machinery.

(*4*) Such further provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery in a factory.

Power to require specifications of defective parts or tests of stability.

25. If it appears to the Inspector that any building or part of a building, or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

(*a*) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

(*b*) to carry out such tests as may be necessary to determine the strength or quality of any specified parts and to inform the Inspector of the results thereof.

Safety of buildings and machinery.

26. (*1*) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(*2*) If it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered

Restrictions on work near machinery in motion.

27. (*1*) No woman or child shall be allowed to clean or oil any part of the machinery of a factory while that part is in motion under power, or to work between moving parts or between fixed and moving parts of any machinery which is in motion under power.

(*2*) The [1][Provincial Government] may, by notification in the [2][Official Gazette], prohibit, in any specified factory or class of factories, the cleaning or oiling by any person of specified parts of machinery when these parts are in motion under power.

Power to exclude children.

28. (*1*) The [1][Provincial Government] may make rules prohibiting the admission to any specified class of factories, or to specified parts thereof, of children who cannot be lawfully employed therein.

(*2*) If it appears to the Inspector that the presence in any factory or part of a factory of children who cannot be lawfully employed therein may be dangerous to them or injurious to their health, he may serve on the manager

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[1] Subs. by the A. O. for " L. G."

[2] Subs. by the A. O. for " local official Gazette ".

of the factory an order in writing directing him to prevent the admission of such children to the factory or any part of it.

Prohibition of employment of women and children near cotton-openers.

29. No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that, if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof, or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

Notice of certain accidents.

30. Where in any factory an accident occurs which causes death, or which causes any bodily injury whereby any person injured is prevented from resuming his work in the factory during the forty-eight hours after the accident occurred, or which is of any nature which may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

Appeals.

31. (*1*) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Chapter, or the occupier of the factory, may, within thirty days of the service of the order, appeal against it to the [1][Provincial Government], or to such authority as the [1][Provincial Government] may appoint in this behalf, and the [1][Provincial Government] or appointed authority may, subject to rules made in this behalf by the [1][Provincial Government], confirm, modify or reverse the order.

(*2*) The appellate authority may, and if so required in the petition or appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as the [1][Provincial Government] may prescribe in this behalf:

Provided that if no assessor is appointed by such body, or if the assessor so appointed fails to attend at the time and place fixed for hearing the appeal, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor, or, if it thinks fit, without the aid of any assessor.

(*3*) In the case of an appeal against an order under section 16 the appellate authority shall, and in any other case except an appeal against an order under sub-section (*2*) of section 26 or sub-section (*2*) of section 28 the appellate authority may, suspend the order appealed against pending the decision of the appeal, subject however to such conditions as to partial compliance or the adoption of temporary measures as it may choose to impose in any case.

Power of Provincial Government to make rules to supplement this Chapter.

32. The [1][Provincial Government] may make rules—

(*a*) providing for any matter which, according to any of the provisions of this Chapter, is or may be prescribed;

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[1] Subs. by the A. O. for "L. G"

(*Chapter III.—Health and Safety.*)

(*b*) requiring the managers of factories to maintain stores of first-aid appliances and provide for their proper custody;

(*c*) providing against danger arising from the use of mechanical transport in factories, other than railways subject to the Indian Railways Act, 1890; 90.

(*d*) prescribing the manner of the service of orders under this Chapter on managers of factories;

(*e*) regulating the procedure to be followed in presenting and hearing appeals under section 31, and the appointment and remuneration of assessors;

(*f*) regulating the exercise by Inspectors of their powers under this Chapter; and

(*g*) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

Additional power to make health and safety rules relating to— shelters during rest,—

33. (*1*) The [1][Provincial Government] may make rules requiring that in any specified factory wherein more than one hundred and fifty workers are ordinarily employed, an adequate shelter shall be provided for the use of workers during periods of rest, and such rules may prescribe the standards of such shelters.

rooms for children,—

(*2*) The [1][Provincial Government] may also make rules—

(*a*) requiring that in any specified factory, wherein more than fifty women workers are ordinarily employed, a suitable room shall be reserved for the use of children under the age of six years belonging to such women, and

(*b*) prescribing the standards for such rooms and the nature of the supervision to be exercised over the children therein.

certificates of stability,—

(*3*) The [1][Provincial Government] may also make rules, for any class of factories and for the whole or any part of the Province, requiring that work on a manufacturing process carried on with the aid of power shall not be begun in any building or part of a building erected or taken into use as a factory after the commencement of this Act, until a certificate of stability in the prescribed form, signed by a person possessing the prescribed qualifications, has been sent to the Inspector.

hazardous operations.

(*4*) Where the [2][Provincial Government] is satisfied that any operation in a factory exposes any persons employed upon it to a serious risk of bodily injury, poisoning or disease, [3][it] may make rules[4] applicable to any factory or class of factories in which the operation is carried on—

(*a*) specifying the operation and declaring it to be hazardous,

[1] Subs by the A. O. for "L. G."
[2] Subs. by the A. O. for "G G in C."
[3] Subs. by the A. O for "he".
[4] For such rules applicable to certain hazardous occupations (*e.g.*, lead, aerated waters, rubber, chromium, cellulose spraying, blasting, etc) made by the G. G in C. before 1st April, 1937, *see* Gazette of India, 1937, Pt. I, pp 627 to 630 and 776 to 778.

(Chapter III.—Health and Safety. Chapter IV.—Restrictions on Working Hours of Adults.)

(*b*) prohibiting or restricting the employment of women, adolescents or children upon the operation,

(*c*) providing for the medical examination of persons employed or seeking to be employed upon the operation and prohibiting the employment of persons not certified as fit for such employment, and

(*d*) providing for the protection of all persons employed upon the operation or in the vicinity of the places where it is carried on.

CHAPTER IV.

Restrictions on Working Hours of Adults.

Weekly hours.

34. No adult worker shall be allowed to work in a factory for more than fifty-four hours in any week, or, where the factory is a seasonal one, for more than sixty hours in any week:

Provided that an adult worker in a non-seasonal factory engaged in work which for technical reasons must be continuous throughout the day may work for fifty-six hours in any week.

Weekly holiday.

35. (*1*) No adult worker shall be allowed to work in a factory on a Sunday unless—

(*a*) he has had or will have a holiday for a whole day on one of the three days immediately before or after that Sunday, and

(*b*) the manager of the factory has, before that Sunday or the substituted day, whichever is earlier,—

(i) delivered a notice to the office of the Inspector of his intention to require the worker to work on the Sunday and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (*1*) may be cancelled by a notice delivered to the office of the Inspector and a notice displayed in the factory not later than the day before the Sunday or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (*1*), any worker works on a Sunday and has had a holiday on one of the three days immediately before it, that Sunday shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

Daily hours.

36. No adult worker shall be allowed to work in a factory for more than ten hours in any day:

(*Chapter IV.—Restrictions on Working Hours of Adults.*)

Provided that a male adult worker in a seasonal factory may work for eleven hours in any day.

Intervals for rest.

37. The periods of work of adult workers in a factory during each day shall be fixed either—

(*a*) so that no period shall exceed six hours, and so that no worker shall work for more than six hours before he has had an interval for rest of at least one hour;

(*b*) so that no period shall exceed five hours and so that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour, or for more than eight and a half hours before he has had at least two such intervals.

Spreadover.

38. The periods of work of an adult worker in a factory shall be so arranged that along with his intervals for rest under section 37, they shall not spread over more than thirteen hours in any day, save with the permission of the [1][Provincial Government] and subject to such conditions as it may impose, either generally or in the case of any particular factory.

Notice of Periods for Work for Adults and preparation thereof.

39. (*1*) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (*2*) of section 76 a Notice of Periods for Work for Adults showing clearly the periods within which adult workers may be required to work.

(*2*) The periods shown in the Notice required by sub-section (*1*) shall be fixed beforehand in accordance with the following provisions of this section and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 34, 35, 36, 37 and 38.

(*3*) Where all the adult workers in a factory are required to work within the same periods, the manager of the factory shall fix those periods for such workers generally

(*4*) Where all the adult workers in a factory are not required to work within the same periods, the manager of the factory shall classify them into groups according to the nature of their work.

(*5*) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods within which the group may be required to work.

(*6*) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shift, the manager of the factory shall fix the periods within which each relay of the group may be required to work.

(*7*) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods within which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

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[1] Subs. by the A. O. for "L. G."

(8) The [1][Provincial Government] may make rules prescribing forms for the Notice of Periods for Work for Adults and the manner in which it shall be maintained.

Copy of Notice of Periods for Work to be sent to Inspector.

40. (1) A copy of the Notice referred to in sub-section (1) of section 39 shall be sent in duplicate to the Inspector within fourteen days after the commencement of this Act, or, if the factory begins work after the commencement of this Act, before the day on which it begins work.

(2) Any proposed change in the system of work in a factory which will necessitate a change in the Notice shall be notified to the Inspector in duplicate before the change is made, and, except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

Register of Adult Workers.

41. (1) The manager of every factory shall maintain a Register of Adult Workers showing—

(a) the name of each adult worker in the factory,
(b) the nature of his work,
(c) the group, if any, in which he is included,
(d) where his group works on shifts, the relay to which he is allotted, and
(e) such other particulars as may be prescribed :

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all of the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of and be treated as the Register of Adult Workers in that factory:

Provided further that, where the [1][Provincial Government] is satisfied that the conditions of work in any factory or class of factories are such that there is no appreciable risk of contravention of the provisions of this Chapter in the case of that factory or factories of that class, as the case may be, the [1][Provincial Government] may, by written order, exempt, on such conditions as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section.

(2) The [1][Provincial Government] may make rules prescribing the form of the Register of Adult Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

Hours of work to correspond with Notice under section 39 and Register under section 41.

42. No adult worker shall be allowed to work otherwise than in accordance with the Notice of Periods for Work for Adults displayed under sub-section (1) of section 39 and the entries made beforehand against his name in the Register of Adult Workers maintained under section 41.

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[1] Subs. by the A. O. for "L. G."

(*Chapter IV.—Restrictions on Working Hours of Adults.*)

43. (*1*) The [1][Provincial Government] may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, [2][other than the provisions of clause (*b*) of sub-section (*1*) of section 45 and of the provisos to that sub-section], shall not apply to any person so defined.

Power to make rules exempting from restrictions.

(*2*) The [1][Provincial Government] may make rules for adult workers providing for the exemption, to such extent and subject to such conditions as may be prescribed in such rules,—

(*a*) of workers engaged on urgent repairs—from the provisions of sections 34, 35, 36, 37 and 38;

(*b*) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory—from the provisions of sections 34, 36, 37 and 38;

(*c*) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required under section 37—from the provisions of sections 34, 36, 37 and 38;

(*d*) of workers engaged in any work which for technical reasons must be carried on continuously throughout the day—from the provisions of sections 34, 35, 36, 37 and 38;

(*e*) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day—from the provisions of section 35;

(*f*) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons—from the provisions of section 35;

(*g*) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces—from the provisions of section 35 and section 37; and

(*h*) of workers engaged in engine-rooms or boiler-houses—from the provisions of section 35.

(*3*) Rules made under sub-section (*2*) providing for any exemption may also provide for any consequential exemption from the provisions of sections 39 and 40 which the [1][Provincial Government] may deem to be expedient, subject to such conditions as it may impose.

(*4*) In making rules under this section the [1][Provincial Government] shall prescribe the maximum limits for the weekly hours of work for all classes

[1] Subs. by the A. O. for "L. G."
[2] Ins. by the Factories (Amendment) Act, 1935 (11 of 1935), s. 2.

of workers, and any exemption given, other than an exemption under clause (*a*) of sub-section (*2*), shall be subject to such limits.

(*5*) Rules made under this section shall remain in force for not more than three years.

Power to make orders exempting from restrictions.

44. (*1*) Where the [1][Provincial Government] is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of sections 39 and 40 in respect of such workers to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(*2*) The [1][Provincial Government], or subject to the control of the [1][Provincial Government] the Chief Inspector, may, by written order, exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory, or group or class of factories, from any or all of the provisions of sections 34, 35, 36, 37, 38, 39 and 40, on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(*3*) Any exemption given under sub-section (*2*) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (*4*) of section 43

(*4*) An order under sub-section (*2*) shall remain in force for such period as it may specify, but in no case for more than two months from the date on which notice thereof is given to the manager of the factory.

Further restrictions on the employment of women.

45. (*1*) The provisions of this Chapter shall, in their application to women workers in factories, be supplemented by the following further restrictions, namely —

(*a*) no exemption from the provisions of section 36 may be granted in respect of any woman, and

(*b*) no woman shall be allowed to work in a factory except between 6 A.M and 7 P.M :

Provided that the [1][Provincial Government] may, by notification in the [2][Official Gazette], in respect of any class or classes of factories and for the whole year or any part of it, vary the limits laid down in clause (*b*) to any span of thirteen hours between 5 A.M. and 7-30 P.M. :

Provided further that, in respect of any seasonal factory or class of seasonal factories in a specified area, the [1][Provincial Government] may make rules imposing a further restriction by defining the period or periods of the day within which women may be allowed to work, such that the period or

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[1] Subs by the A O for " L. G."
[2] Subs. by the A. O. for " local official Gazette ".

periods so defined shall lie within the span fixed by clause (*b*) or under the above proviso and shall not be less than ten hours in the aggregate.

(*2*) The [1][Provincial Government] may make rules providing for the exemption from the above restrictions, to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories where the employment of women beyond the said hours is necessary to prevent damage to or deterioration in any raw material.

(*3*) Rules made under sub-section (*2*) shall remain in force for not more than three years.

46. Where a worker works on a shift which extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted towards the previous day : **Special provision for night-shifts.**

Provided that the [1][Provincial Government] may, by order in writing, direct that in the case of any specified factory or any specified class of workers therein the ensuing day shall be deemed to be the period of twenty-four hours beginning when such shift begins and that the hours worked before midnight shall be counted towards the ensuing day.

47. (*1*) Where a worker in any factory works for more than sixty hours in any week, **Extra pay for overtime.**

or where a worker in a factory other than a seasonal factory works for more than ten hours in any day,

he shall be entitled in respect of the overtime worked to pay at the rate of one-and-a-half times his ordinary rate of pay.

(*2*) Where a worker in a factory other than a seasonal factory works for more hours in any week than are permitted under section 34, he shall be entitled, in respect of the overtime worked excluding any overtime in respect of which he is entitled to extra pay under sub-section (*1*), to pay at the rate of one-and-a-quarter times his ordinary rate of pay.

(*3*) Where any workers are paid on a piece rate basis, the [1][Provincial Government] in consultation with the industry concerned may for the purposes of this section fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of pay of those workers for the purposes of this section

(*4*) The [1][Provincial Government] may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

48. No adult worker shall be allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed. **Restriction on double employment.**

[1] Subs. by the A. O. for " L. G."

Control of overlapping shifts

49. The [1][Provincial Government] may make rules providing that in any specified class or classes of factories work shall not be carried on by a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time save with the permission of the [1][Provincial Government] and subject to such conditions as it may impose, either generally or in the case of any particular factory.

CHAPTER V.

SPECIAL PROVISIONS FOR ADOLESCENTS AND CHILDREN.

Prohibition of employment of young children.

50. No child who has not completed his twelfth year shall be allowed to work in any factory.

Non-adult workers to carry tokens giving reference to certificates of fitness.

51. No child who has completed his twelfth year and no adolescent shall be allowed to work in any factory unless—

(*a*) a certificate of fitness granted to him under section 52 is in the custody of the manager of the factory, and

(*b*) he carries while he is at work a token giving a reference to such certificate.

Certificates of fitness

52. (*1*) A certifying surgeon shall, on the application of any young person who wishes to work in a factory, or of the parent or guardian of such person, or of the manager of the factory in which such person wishes to work, examine such person and ascertain his fitness for such work.

(*2*) The certifying surgeon, after examination, may grant to such person, in the prescribed form,—

(*a*) a certificate of fitness to work in a factory as a child, if he is satisfied that such person has completed his twelfth year, that he has attained the prescribed physical standards (if any), and that he is fit for such work; or

(*b*) a certificate of fitness to work in a factory as an adult, if he is satisfied that such person has completed his fifteenth year and is fit for a full day's work in a factory.

(*3*) A certifying surgeon may revoke any certificate granted under sub-section (*2*) if, in his opinion, the holder of it is no longer fit to work in the capacity stated therein in a factory.

(*4*) Where a certifying surgeon or a practitioner authorised under sub-section (*2*) of section 12 refuses to grant a certificate or a certificate of the kind requested, or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate, state his reasons in writing for so doing.

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[1] Subs. by the A O. for "L. G"

(*Chapter V.—Special Provisions for Adolescents and Children.*)

53. (*1*) An adolescent who has been granted a certificate of fitness to work in a factory as an adult, under clause (*b*) of sub-section (*2*) of section 52, and who, while at work in a factory, carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapter IV. **Effect of certificate granted to adolescent.**

(*2*) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under sub-section (*2*) of section 52 shall, notwithstanding his age, be deemed to be a child for the purposes of this Act.

54. (*1*) No child shall be allowed to work in a factory for more than five hours in any day. **Restrictions on the working hours of a child.**

(*2*) The hours of work of a child shall be so arranged that they shall not spread over more than seven-and-a-half hours in any day.

(*3*) No child shall be allowed to work in a factory except between 6 A.M. and 7 P.M. :

Provided that the [1][Provincial Government] may, by notification in the [2][Official Gazette], in respect of any class or classes of factories and for the whole year or any part of it, vary these limits to any span of thirteen hours between 5 A.M. and 7-30 P.M.

(*4*) The provisions of section 35 shall apply also to child workers, but no exemption from the provisions of that section may be granted in respect of any child.

(*5*) No child shall be allowed to work in any factory on any day on which he has already been working in another factory.

55. (*1*) There shall be displayed and correctly maintained in every factory, in accordance with the provisions of sub-section (*2*) of section 76, a Notice of Periods for Work for Children, showing clearly the periods within which children may be required to work. **Notice of Periods for Work for Children.**

(*2*) The periods shown in the Notice required by sub-section (*1*) shall be fixed beforehand in accordance with the method laid down for adults in section 39 and shall be such that children working for those periods would not be working in contravention of section 54.

(*3*) The provisions of section 40 shall apply also to the Notice of Periods for Work for Children.

(*4*) The [1][Provincial Government] may make rules prescribing forms for the Notice of Periods for Work for Children and the manner in which it shall be maintained.

56. (*1*) The manager of every factory in which children are employed shall maintain a Register of Child Workers showing— **Register of Child Workers.**

(*a*) the name of each child worker in the factory,

(*b*) the nature of his work,

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".

(*Chapter V.—Special Provisions for Adolescents and Children.*)

(*c*) the group, if any, in which he is included,

(*d*) where his group works on shifts, the relay to which he is allotted,

(*e*) the number of his certificate of fitness granted under section 52, and

(*f*) such other particulars as may be prescribed.

(*2*) The [1][Provincial Government] may make rules prescribing the form of the Register of Child Workers, the manner in which it shall be maintained, and the period for which it shall be preserved.

Hours of work to correspond with Notice and Register.

57. No child shall be allowed to work otherwise than in accordance with the Notice of Periods for Work for Children displayed under sub-section (*1*) of section 55 and the entries made beforehand against his name in the Register of Child Workers maintained under sub-section (*1*) of section 56

Power to require medical examination.

58. Where an Inspector is of opinion—

(*a*) that any person working in a factory without a certificate of fitness is a child or an adolescent, or

(*b*) that a child or adolescent working in a factory with a certificate is no longer fit to work in the capacity stated therein,

he may serve on the manager of the factory a notice requiring that such person, or that such child or adolescent, as the case may be, shall be examined by a certifying surgeon or by a practitioner authorised under sub-section (*2*) of section 12, and such person, child or adolescent shall not, if the Inspector so directs, be allowed to work in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

Power to make rules.

59. The [1][Provincial Government] may make rules—

(*a*) prescribing the forms of certificates of fitness to be granted under section 52, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and such duplicates;

(*b*) prescribing the physical standards to be attained by children and adolescents;

(*c*) regulating the procedure of certifying surgeons under this Chapter, and specifying other duties which they may be required to perform in connection with the employment of children and adolescents in factories; and

(*d*) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

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[1] Subs. by the A. O for "L. G."

CHAPTER VI.

PENALTIES AND PROCEDURE.

60. If in any factory— **Penalty for contraventions of Act and rules.**

(*a*) there is any contravention—

(i) of any of the provisions of sections 13 to 29 inclusive, or

(ii) of any order made under any of the said sections, or

(iii) of any of the said sections read with rules made in pursuance thereof under clause (*a*) of section 32, or

(iv) of any rule made under any of the said sections or under clause (*b*), clause (*c*), or clause (*g*) of section 32 or section 33, or

(v) of any condition imposed under sub-section (*3*) of section 31, or

(*b*) any person is allowed to work in contravention—

(i) of any of the provisions of sections 34 to 38 inclusive, 42, 45 and 48, or

(ii) of any rule made under any of the said sections, or under section 49, or

(iii) of any condition attached to any exemption granted under section 43 or section 44 or section 45 or to any permission granted under section 38 or section 49, or

(*c*) there is any contravention of any of the provisions of sections 39 to 41 inclusive or of any rule made under section 39, section 41 or section 47, or of any condition attached to any exemption granted under section 41 or to any modification or relaxation made under section 44, or

(*d*) any person is not paid any extra pay to which he is entitled under the provisions of section 47, or

(*e*) any adolescent or child is allowed to work in contravention of any of the provisions of sections 50, 51, 54, 55, 57 and 58, or

(*f*) there is any contravention of section 55 or section 56 or of any rules made under either of these sections, or under clause (*d*) of section 59,

the manager and occupier of the factory shall each be punishable with fine which may extend to five hundred rupees:

Provided that if both the manager and the occupier are convicted, the aggregate of the fines inflicted in respect of the same contravention shall not exceed this amount.

61. If any person who has been convicted of any offence punishable under clauses (*b*) to (*f*) inclusive of section 60 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on the second conviction with fine which may extend to seven hundred and fifty rupees **Enhanced penalty in certain cases after previous conviction.**

and shall not be less than one hundred rupees, and if he is again so guilty, shall be punishable on the third or any subsequent conviction with fine which may extend to one thousand rupees and shall not be less than two hundred and fifty rupees :

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished :

Provided further that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section

Penalty for failure to give notice of commencement of work or of change of manager.

62. An occupier of factory who fails to give any notice required by sub-section (*1*) or sub-section (*2*) of section 9 shall be punishable with fine which may extend to five hundred rupees.

Penalty for obstructing Inspector.

63. Whoever wilfully obstructs an Inspector in the exercise of any power under section 11, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any of the rules made thereunder, or conceals or prevents any worker in a factory from appearing before or being examined by an Inspector, shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to give notice of accidents.

64. A manager of a factory who fails to give notice of an accident as required under section 30 shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to make returns.

65. If in respect of any factory any return is not furnished as required under section 77, the manager and the occupier of the factory shall each be liable to fine which may extend to five hundred rupees :

Provided that if both the manager and the occupier are convicted, the aggregate of the fines inflicted shall not exceed this amount.

Penalty for smoking or using naked light in vicinity of inflammable material

66. Whoever smokes, or uses a naked light or causes or permits any such light to be used in the vicinity of any inflammable material in a factory shall be punishable with fine which may extend to five hundred rupees.

Exception.—This provision does not extend to the use, in accordance with such precautions as may be prescribed, of a naked light in the course of a manufacturing process.

Penalty for using false certificate.

67. Whoever knowingly uses or attempts to use, as a certificate granted to himself under section 52, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees.

(*Chapter VI.—Penalties and Procedure*)

68. If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him, or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to twenty rupees, unless it appears to the Court that the child so worked without the consent, connivance or wilful default of such parent, guardian or person.

Penalty on guardian for permitting double employment of a child.

69. A manager of a factory who fails to display the notice required under sub-section (*1*) of section 76 or by any rule made under this Act, or to display or maintain any such notice as required by sub-section (*2*) of that section, shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to display certain notices.

70. (*1*) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable

Determination of "occupier" for purposes of this Chapter.

Provided that the firm or association may give notice to the Inspector that it has nominated one of its number who is resident in British India to be the occupier of the factory for the purposes of this Chapter, and such individual shall so long as he is so resident be deemed to be the occupier for the purposes of this Chapter until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association

(*2*) Where the occupier of a factory is a company, any one of the directors thereof, or, in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable :

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a shareholder, who is resident in either case in British India, to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder shall so long as he is so resident be deemed to be the occupier of the factory for the purposes of this Chapter until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

71. (*1*) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge , and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

Exemption of occupier or manager from liability in certain cases.

(*a*) that he has used due diligence to enforce the execution of this Act, and

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance,

(Chapter VI.—Penalties and Procedure.)

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager.

Presumption as to employment.

72. If a child over the age of six years is found inside any part of a factory in which children are working, he shall, until the contrary is proved, be deemed to be working in the factory.

Evidence as to age.

73. (1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that worker.

Cognizance of offences.

74. (1) No prosecution under this Act, except a prosecution under section 66, shall be instituted except by or with the previous sanction of the Inspector.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence against this Act or any rule or order made thereunder, other than an offence under section 66 or section 67.

Limitation of prosecutions.

75. No Court shall take cognizance of any offence under this Act or any rule or order thereunder, other than an offence under section 62 or section 64, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed:

Provided that when the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within twelve months of the date on which the offence is alleged to have been committed.

(Chapter VII.—Supplemental.)

CHAPTER VII.

SUPPLEMENTAL.

76. (*1*) In addition to the notices required to be displayed in any factory by this Act or the rules made thereunder, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder, in English and in the vernacular of the majority of the workers as the [1][Provincial Government] may prescribe. **Display of *factory* notices.**

(*2*) All notices required to be displayed in a factory shall be displayed at some conspicuous place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

77. The [2][Provincial Government] may make rules requiring occupiers or managers of factories to submit such returns, occasional or periodical, as may in [3][its] opinion be required for the purposes of this Act. **Power of Provincial Government to make rules.**

78. [*Control of rules made by Local Governments.*] *Rep. by the A. O.*

79. (*1*) All rules made under this Act shall be subject to the condition of previous publication, and the date to be specified under clause (*3*) of section 23 of the General Clauses Act, 1897, shall not be less than three months from the date on which the draft of the proposed rules was published. **Publication of rules.** **X of 1897.**

(*2*) All such rules shall be published in [4]* * * * the [5][Official Gazette] [6]* * * and shall, unless some later date is appointed, come into force on the date of such publication.

80. This Act shall apply to factories belonging to the Crown. **Application to Crown factories.**

81. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. **Protection to persons acting under this Act.**

82. [*Repeal and savings.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II*

THE SCHEDULE.—[ENACTMENTS REPEALED.] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

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[1] Subs. by the A. O. for "L. G."
[2] Subs by the A. O. for "G. G. in C."
[3] [illegible]
[4] [illegible]
[5] [illegible]
[6] [illegible]

THE ASSAM CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) ACT, 1934.

ACT No. XXVII OF 1934.[1]

[25th August, 1934.]

An Act to supplement the Assam Criminal Law Amendment Act, 1934.

WHEREAS it is expedient to supplement the Assam Criminal Law Amendment Act, 1934 ; It is hereby enacted as follows :— Assam III of 1934.

Short title. **1.** This Act may be called the Assam Criminal Law Amendment (Supplementary) Act, 1934

Appeals and confirmations. **2.** (*1*) Any person convicted on a trial held by Commissioners under the Assam Criminal Law Amendment Act, 1934, may appeal to the High Court of Judicature at Fort William in Bengal, and such appeal shall be disposed of by the said High Court in the manner provided in Chapter XXXI of the Code of Criminal Procedure, 1898. Assam III of 1934. V of 1898.

(*2*) When the said Commissioners pass a sentence of death, the record of the proceedings before them shall be submitted to the said High Court, and the sentence shall not be executed unless it is confirmed by the High Court which shall exercise in respect of such proceedings all the powers conferred on the High Court by Chapter XXVII of the Code of Criminal Procedure, 1898. V of 1898.

Bar of certain legal proceedings. **3.** The powers conferred by section 491 of the Code of Criminal Procedure, 1898, shall not be exercised in respect of any person arrested, committed to or detained in custody under the Assam Criminal Law Amendment Act, 1934. V of 1898. Assam III of 1934.

Retrospective effect of sections 2 and 3. **4.** Section 2 and section 3 shall have effect from the commencement of the Assam Criminal Law Amendment Act, 1934. Assam III of 1934.

THE INDIAN RUBBER CONTROL ACT, 1934.

CONTENTS.

PRELIMINARY.

SECTIONS.

[1] For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 180.

CHAPTER I.

THE RUBBER LICENSING COMMITTEE.

SECTIONS.

CHAPTER II.

CONTROL OVER THE EXPORT OF RUBBER.

CHAPTER III.

CONTROL OVER EXTENSION OF RUBBER CULTIVATION.

ACT NO. XXVIII OF 1934.[1]

[*31st August, 1934.*]

An Act to provide for the control of the export from and import into India of rubber and for the control of the extension of the cultivation of rubber in British India.

WHEREAS it is expedient to provide for the control of the export from and import into India of rubber and for the control of the extension of the cultivation of rubber in British India; It is hereby enacted as follows :—

PRELIMINARY.

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Indian Rubber Control Act, 1934.

(*2*) It extends to the whole of British India.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1934, Pt. V, p. 249

(*Preliminary.*)

(*3*) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

(*4*) It shall remain in force only up to the 31st day of December, 1938, but the [2][Central Government] may, by notification in the [3][Official Gazette], direct that it shall remain in force for such further period as may be specified in any such notification.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

[4][(*a*) "Committee" means the Indian Rubber Licensing Committee constituted under this Act ;]

(*b*) "to export" means to take out of British India by sea or by land to a French or Portuguese Settlement bounded by India or to any place [5][outside India and Burma] ;

(*c*) "factory" means any premises for the manufacture of articles containing rubber [6]* * * ;

(*d*) "net exports of rubber" means the difference between the total exports of rubber [7][excluding rubber contained in imported manufactured articles re-exported] and the total imports of rubber [8][excluding rubber contained in imported manufactured articles, whether or not re-exported] ;

(*e*) "owner" includes any agent of an owner ,

(*f*) "prescribed" means prescribed by rules made under this Act :

(*g*) "to plant" means to propagate a rubber plant from seed or any living portion of the rubber plant that may be used to propagate it, and "to replant" means to plant in any area carrying rubber plants on the 1st day of June, 1934, more than thirty rubber plants in any one acre ;

(*h*) "rubber" means—

(i) rubber prepared from the leaves, bark or latex of any rubber plant,

(ii) the latex of any rubber plant, whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into rubber, and

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[1] 1st January, 1937 : *see* Gazette of India, 1936, Pt I, p. 1609

[2] Subs by the A O for "G. G in C"

[3] Subs by the A. O. for "Gazette of India".

[4] [illegible]

containing rubber"

[8] Subs. by s. 2, *ibid.*, for "excluding rubber in manufactured articles containing rubber".

(*Preliminary. Chapter I.—The Rubber Licensing Committee.*)

(iii) latex in any state of concentration,
and includes [1][rubber contained in any manufactured article];

(*i*) "rubber plant" includes plants, trees, shrubs or vines of any of the following :—

(i) Hevea Braziliensis (Para Rubber),
(ii) Manihot Glaziovii (Ceara Rubber),
(iii) Castilloa elastica,
(iv) Ficus elastica (Rambong), and
(v) any other plant which the [2][Committee] may, by notification in the [3][Official Gazette], declare to be a rubber plant for the purposes of this Act; and

(*j*) "[4][Rubber Licensing Resolution]" means [5][the Resolution] of the [6][Central Government] published under Finance Department (Central Revenues) [7][Notification No. 39], dated the 26th May, 1934

CHAPTER I.

THE RUBBER LICENSING COMMITTEE.

Constitution of Licensing Committee.

3. [8][(*1*) The Central Government shall constitute a Committee to be called the Indian Rubber Licensing Committee.]

(*2*) The Indian Rubber Licensing Committee shall consist of five members, namely,—

(*a*) two members to be nominated by the Government of Travancore,
[9][(*b*) one member to be nominated by the Central Government to represent the Province of Madras,]
(*c*) one member to be nominated by the Cochin Durbar, and
(*d*) one member to be nominated by the United Planters' Association of Southern India,

and the Chairman shall be elected by the members from among themselves :

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[1] Subs. by s. 2 of the Indian Rubber Control (Amendment) Act, 1936 (15 of 1936), for "except where the word is used in Chapter IV, rubber produced in India contained in any article manufactured in India".

[2] Subs. by the A. O. for "G. G. in C."

[3] Subs by the A. O. for "Gazette of India".

[4] Subs. by the A. O. for "Rubber Licensing Resolution".

[5] [illegible]

[6] [illegible]

[7] [illegible]

[8] [illegible]

[9] [illegible]

Provided that the Chairman elected by the Indian Rubber Licensing Committee constituted under the [1][Rubber Licensing Resolution] shall be deemed to have been duly elected under this sub-section as Chairman of the Indian Rubber Licensing Committee constituted under this Act.

[2]* * * * * *

(4) Any person nominated under the [1][Rubber Licensing Resolution] as a member of the Indian Rubber Licensing Committee [3]* * * constituted under [4][the said Resolution] shall, if such nomination is not inconsistent with the provisions contained in sub-section (2) [5]* * *, be deemed to have been duly nominated to the Committee of the same name constituted under this Act.

(5) As soon as may be after the commencement of this Act the [6][Central Government] shall publish in the [7][Official Gazette] the names of all members of [8][the Committee].

4. (1) If any authority or body fails to make within a reasonable time any nomination which it is entitled to make under section 3, the [6][Central Government] may [9][itself] nominate a member to fill the vacancy. Vacancies.

(2) Where a member of the Committee dies, resigns, ceases to reside in India or becomes incapable of acting, the [6][Central Government] may, on the recommendation of the authority or body which is entitled to make the first nomination under section 3, or, where such recommendation is not made within a reasonable time, then on [10][its] own initiative, nominate a person to fill the vacancy.

(3) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.

5. The Committee may appoint such sub-committees (consisting wholly or partly of members of the Committee) and such executive officers as may be necessary for the efficient performance of the duties imposed upon it by this Act: Sub-committees and executive officers.

Provided that sub-committees or executive officers appointed by the Licensing [11][Committee] constituted under the [1][Rubber Licensing Resolution] shall be deemed to have been duly appointed under this Act.

[1] Subs. by the A. O. for "Rubber Licensing Resolutions".

[illegible] " rep by the A O.

[illegible] A. O.

[illegible]

(Chapter I.—The Rubber Licensing Committee.)

Power to make by-laws.

6. *(1)* The Committee may make by-laws[1] consistent with this Act and with the rules made thereunder for all or any of the following matters, namely :—

(*a*) the regulation of the procedure to be followed at meetings of the Committee ;

(*b*) the appointment of sub-committees ;

(*c*) the delegation to sub-committees, members or officers of the Committee of any of the powers of the Committee under this Act ;

(*d*) the determination of the travelling allowances of members or officers of the Committee and of members of a sub-committee ;

(*e*) the appointment, promotion and dismissal of officers and servants of the Committee and the creation and abolition of appointments of such officers and servants ;

(*f*) the regulation of the grant of pay and leave to such officers and servants ; and

(*g*) any other matter in respect of which by-laws may be made under this Act or the rules made thereunder.

(2) All by-laws made under this section shall be subject to the previous sanction of the [2][Central Government].

Power of control by the Central Government.

7. *(1)* Save in respect of proceedings and orders under section 29, all acts of the Committee shall be subject to the control of the [2][Central Government] [3][which] may cancel, suspend or modify as [4][it] thinks fit any such act.

(2) The records of the Committee shall be open to inspection at all reasonable times by any officer authorised in this behalf by the [2][Central Government].

Keeping and auditing of accounts.

8. *(1)* [5][The Committee] shall keep accounts of all fees received by it under this Act, and of the manner in which they are expended.

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the [2][Central Government] ; and such auditors shall have power to disallow any item which has been, in their opinion, expended otherwise than in pursuance of the purposes of this Act.

Dissolution of Committee.

9. *(1)* The [2][Central Government] may, by notification in the [6][Official Gazette], declare [7][the Committee] to be dissolved, and on the date of the publication of such notification the Committee [8]* * * shall stand dissolved, and [9]* * * this Act shall be deemed to be repealed.

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[1] *See* the Indian Rubber Control Act By-laws, published in the Gazette of India, 1937, Pt. I, pp 7-8.

[2] Subs. by the A. O. for "G. G in C."

[3] Subs. by the A. O. for "who".

[4] Subs. by the A. O. for "he".

[5] [illegible]

[6] [illegible]

[7] [illegible]

[8] [illegible] the A. O.

[9] [illegible] he A. O.

(Chapter I.—The Rubber Licensing Committee. Chapter II.—Control over the Export of Rubber.)

(2) When [1][the] Committee is dissolved either under this section or by the expiry of this Act, the unexpended balance of fees received by the Committee under this Act shall lapse to [2][the Central Government].

10. The [3][Central Government] may, by notification in the [4][Official Gazette], make rules[5]— **Power to make rules.**

(*a*) providing for the establishment and maintenance of offices by the Committee ;

(*b*) providing for the conduct of business by the Committee and determining the number of members which shall form a quorum at meetings ;

(*c*) providing for the maintenance by the Committee of a record of all business transacted and submission of copies thereof to Government ,

(*d*) regulating the preparation of annual estimates of receipts and expenditure ,

(*e*) regulating the keeping of accounts of receipts and expenditure ;

(*f*) determining the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest , and

(*g*) generally to carry out the provisions of this Chapter.

CHAPTER II.

CONTROL OVER THE EXPORT OF RUBBER.

11. Nothing in this Act shall apply to the export of rubber which has been placed before midnight on the 31st day of May, 1934, under customs control in a godown or warehouse approved by a Customs Collector or to the export of rubber by parcel post. **Limitation of application of Chapter.**

12. (*1*) No rubber [6][grown, produced or contained in an article manufactured in] [7][India or Burma] shall be exported unless covered by a licence and a certificate of origin issued by or on behalf of the Indian Rubber Licensing Committee [8]* * *. **Control of export of rubber.**

(2) No rubber [6][grown, produced or contained in an article manufactured in] a country other [9][than India and Burma] shall be re-exported unless

[1] Subs. by the A O for " either ".
[2] Subs. by the A. O. for " Govt."
[3] Subs. by the A. O for " G G in C "
[4] Subs. by the A. O for " Gazette of India ".
[5] *See* the Indian Rubber Control Rules, 1936, published in the Gazette of India, 1936, [illegible]
[illegible] " the
[illegible] Burma

covered by a certificate of origin issued by an official empowered in that behalf by the Government of such country and endorsed by or on behalf of the Indian Rubber Licensing Committee [1]* * *.

Export allotments.

[2][13. A general export allotment, that is, the permissible maximum net exports of rubber from British India [3]* * for any specified period expressed in terms of dry rubber [4]* * * shall be declared from time to time by the [5][Central Government] by notification in the [6][Official Gazette].]

Export quotas.

14. (*1*) The export quota of each rubber estate or factory for any period, that is, the total quantity of rubber which may be exported by or on behalf of the owner of the estate or factory during that period, shall be determined by the Committee in the prescribed manner.

(*2*) The total of all export quotas for any period as so determined by the Indian Rubber Licensing Committee [7]* * * shall not be more than an amount which, when the difference between imports of rubber and re-exports of imported rubber in the same period has been deducted therefrom, exceeds the general export allotment [8]* * * for the same period by more than five per cent.

Excess or deficiency in net exports.

15. (*1*) If in any year the net exports of rubber from British India [3]* * exceed the general export allotment for that year [9]* * * the export allotment for the succeeding year shall be deemed to be reduced by an amount equal to such excess.

(*2*) If in any year the net exports of rubber from British India [3]* * are less than the general export allotment for that year, [10]* * * a quantity of rubber equal to the amount of such deficiency but not in any case exceeding twelve per cent. of the export allotment for the year in which the deficiency occurred may be exported in the succeeding year and shall not be deemed to form part of the export allotment for the year in which it is exported.

(*3*) The right to export rubber to which sub-section (*2*) refers shall be allocated among estates and factories by the Committee in the prescribed manner.

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[1] The words " in the case of re-exports from British India excluding Burma, or the Burma Rubber Licensing Committee in the case of re-exports from Burma " rep. by the A. O.
[2] Subs. by s. 4 of the Indian Rubber Control (Amendment) Act, 1936 (15 of 1936), for the

(Chapter II.—Control over the Export of Rubber.)

(4) As soon as may be after the end of each year, the [1][Central Government] shall notify in the [2][Official Gazette] [3]* * * the amount of any deficiency to which the provisions of sub-section (2) apply.

16. (1) The owner of a rubber estate or factory to which a quota has been allotted by the Committee for any period shall have a right to obtain from that Committee at any time during that period export licences and certificates of origin to cover the export of rubber up to the amount of the unexhausted balance of the quota, that is, up to the amount of the quota less the amount for which export licences have already been issued against it: Right to obtain export licences.

Provided that the unexhausted balance of any quota at any time during the year 1934 after the commencement of this Act shall be the amount of the quota less—

(a) the amount for which export licences have already been issued against the quota under this Act, and

(b) the amount for which export licences were issued against the quota by a Licensing Committee constituted under the [4][Rubber Licensing Resolution].

(2) The right of the owner of a rubber estate or factory under this section may be transferred in whole or in part and, subject to proof of the transfer to the satisfaction of the Committee which determined the quota, the transferee shall have a right to obtain certificates of origin and export licences up to the amount covered by the transfer or up to the amount of the unexhausted balance of the quota, whichever may be less.

17. (1) The owner of any rubber estate or factory to which a quota has been allotted by the Committee, or any transferee of his right, may, at any time before the expiry of the period to which the quota relates, apply in writing to the Committee for an export licence and a certificate of origin covering a stated quantity of rubber. Grant of export licences and certificates of origin.

(2) If the unexhausted balance of the quota is sufficient to cover the stated quantity, the Committee shall, subject to the payment of the requisite fee, issue an export licence and certificate of origin covering the stated quantity.

(3) Every licence and certificate of origin shall be in the prescribed form and shall bear the date of its issue, and every licence shall be valid for such period as may be specified therein or until shipment of the consignment covered by the licence, provided that such consignment was placed under customs control with a view to shipment before the expiry of the period specified on the licence and has remained thereafter under customs control.

[1] Subs. by the A. O. for "G. G. in C."
[2] [illegible]
[3] [illegible] Burma and in respect of Burma res-
[4] [illegible] itions".

(Chapter II.—Control over the Export of Rubber.)

Re-export of imported rubber.

18. (*1*) Any person desiring to export [1][from British India] rubber imported into British India [1][or British Burma] from a place outside India [1][and Burma] may apply to the Committee for an endorsement on the certificate of origin under cover of which such rubber was imported.

(*2*) On receipt of such application the Committee shall make an endorsement on the certificate of origin in such form and subject to such conditions as may be prescribed, and such endorsement shall be sufficient to authorise the export from British India of such rubber.

Committee to maintain accounts of quotas.

19. (*1*) The Committee shall maintain an account of every export quota allotted by it showing, in addition to such other particulars as the Committee may think fit, the licences issued against it and the unexhausted balance.

(*2*) The Committee shall maintain an account of all rubber imported from a place outside India [1][and Burma] the export of which was authorised by it under sub-section (*2*) of section 18.

(*3*) Any owner of a rubber estate or factory shall be entitled on payment of the requisite fee to a copy of the account relating to his quota, certified in the manner laid down in the by-laws.

Rubber for export to be covered by licence and certificate of origin.

20. (*1*) No consignment of rubber shall be shipped or water-borne to be shipped for export from a port in British India until the owner has delivered to the Customs Collector either a valid export licence and a certificate of origin, covering the quantity to be shipped, issued by or on behalf of the Committee, or, in the case of rubber to which the provisions of section 18 apply, a certificate of origin endorsed by or on behalf of the Committee.

(*2*) No permit for the passage of any rubber by land into any of the French or Portuguese Settlements bounded by India shall be granted under sub-section (*1*) of section 5 of the Land Customs Act, 1924, unless the application for such permit is accompanied by a valid export licence and a certificate of origin, covering the quantity to be passed, issued by or on behalf of the Committee, or, in the case of rubber to which the provisions of section 18 apply, a certificate of origin endorsed by or on behalf of the Committee.

XIX of 19[24]

Power of Committee to call for returns.

21. (*1*) The Committee may serve by post a notice upon the owner of any rubber estate or factory requiring him to furnish, within such period not being less than thirty days as may be specified in the notice, such returns relating to the area planted with rubber or to the production, manufacture, sale or export of rubber produced on the estate or manufactured in the factory as it may deem necessary to enable it to discharge its duties under this Act.

(*2*) Where any return required under sub-section (*1*) in respect of any rubber estate or factory is not furnished to the Committee within the period specified in the notice, the Committee may refuse to allot a quota to that estate or factory under section 14 or, where a quota has already been allotted,

[1] Ins. by the A. O. The directions in Sch. I of the A. O. would seem to apply only to sub-section (*1*) of s. 18, and not to sub-section (*2*).

(*Chapter II.—Control over the Export of Rubber.*)

may cancel the unexhausted balance of that quota and refuse to issue any further export licences and certificates of origin under section 15 against that quota.

22. (*1*) The Committee may charge and collect the following fees, namely:— Fees.

(*a*) a licence fee for every export licence issued by it, at such rate, not exceeding one rupee per hundred pounds of rubber covered by the licence, as the [1][Central Government] may, by notification in the [2][Official Gazette], fix in this behalf, and

(*b*) copying fees for certified copies of accounts of quotas at the rate of one rupee per copy.

Provided that the owner of any rubber estate or factory to which a quota has been allotted under section 14 may make a consolidated payment of export licence fees at the rate fixed under clause (*a*) to cover the whole of the quota.

(*2*) The Committee shall apply the fees collected by it under this section to the meeting of expenses incurred by it in pursuance of the purposes of this Act and, with the previous sanction of the [1][Central Government], to the payment of a contribution towards the maintenance of any international committee established in furtherance of the interest of the rubber industry in rubber-producing countries generally.

23. (*1*) All licences and certificates of origin for the export of rubber and all quotas issued or fixed by the Licensing [3][Committee] constituted under the [4][Rubber Licensing Resolution] shall be deemed to be licences and quotas respectively issued or fixed under this Act. Validation of acts already done.

(*2*) All transfers of the right to obtain export licences and certificates of origin from the said Licensing [3][Committee] shall be valid as if they had been made under this Act.

24. The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[5]— Power to make rules.

(*a*) prescribing the manner in which the export quotas of rubber estates and factories shall be determined;

(*b*) prescribing the conditions subject to which the export [6][from British India] of rubber imported into British India [6][or British Burma from a place outside India and Burma] may be permitted and the form of endorsement to be made on the certificates of origin accompanying such rubber;

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A O for "Gazette of India".
[3] Subs by the A. O. for "Committees".
[4] Subs by the A O. for "Rubber Licensing Resolutions".
[5] *See* the Indian Rubber Control Rules, 1936, published in the Gazette of India, 1936, Pt. I, pp. 1609 to 1614
[6] Ins. by the A. O.

(*c*) prescribing the manner in which the right to export rubber to which sub-section (*2*) of section 15 applies shall be allocated among rubber estates and factories;

(*d*) prescribing the form of export licences and certificates of origin; and

(*e*) generally to carry out the purposes of this Chapter.

Bar of jurisdiction.

25. No quota fixed and no order granting or refusing to grant any licence or certificate of origin under this Chapter shall be called in question in any Court.

CHAPTER III.

CONTROL OVER EXTENSION OF RUBBER CULTIVATION.

Control of cultivation of rubber.

26. So long as this Act remains in force no person shall plant rubber plants in any land, or replant any land with rubber plants, save in pursuance of a written permission granted by or on behalf of the Committee under this Act.

Permission to plant rubber plants.

27. (*1*) Permission under section 26 to plant rubber plants shall be granted only in respect of an area intended for the cultivation of rubber plants for exclusively experimental purposes, and such area shall in every case be limited to the area necessary for such purposes.

[1]* * * * * * *

(*3*) The total area of land in any Province [2]* * in respect of which permission to plant rubber may be granted shall be such area, being as nearly as may be one-quarter of one per cent. of the total area in the Province which was planted with rubber plants on the 1st day of June, 1934, as the [3][Committee], by notification in the Gazette of India, may specify in this behalf.

Permission to replant land with rubber plants.

28. Permission under section 26 to replant land with rubber plants shall be subject to the following limitations, namely,—

(*a*) no person shall be permitted to replant in any one year more than ten per cent. of the area of his estate that was planted with rubber plants on the 1st day of June, 1934, and

(*b*) no person shall be permitted to replant more than twenty per cent. of such area in all before the 31st day of December, 1938.

Application for permission to plant or replant.

29. (*1*) Application for permission to plant rubber plants or to replant land with rubber plants shall be made to the Committee and shall contain a clear statement of all special circumstances justifying the application.

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[1] Sub-section (2) rep. by the A. O.
[2] The words "other than Burma" rep. by the A. O.
[3] Subs. by the A. O. for "G. G. in C."

(2) Subject to the provisions of sections 27 and 28, the Committee may grant or refuse the permission applied for, or may call for further information from the applicant.

(3) No order by the Committee under sub-section (2) shall be called in question in any Court.

30. (*1*) Any applicant aggrieved by an order of the Committee under section 29 may appeal to the [1][Provincial Government] within sixty days from the date thereof, and the [1][Provincial Government] may on such appeal cancel, modify or suspend any order of the Committee under that section. **Appeal to Provincial Government.**

(2) The records of the Committee relating to proceedings under this Chapter shall be open to inspection at all reasonable times by any officer authorised in this behalf by the [1][Provincial Government].

31. (*1*) The Committee may serve by post a notice upon the owner of any rubber estate, requiring him to furnish, within such period not being less than thirty days as may be specified in the notice, such returns relating to the cultivation of rubber plants on the estate as it may deem necessary to enable it to discharge its duties under this Act **Power of Committee to call for return and to inspect estates.**

(2) Any member of the Committee and any officer of the Committee authorised by it in this behalf may, at any reasonable time, enter upon and inspect any portion of any rubber estate, and may require the owner of the estate to produce for inspection any records of the estate in his control or custody relating to the cultivation of rubber plants and the stocks of rubber on the estate.

(3) Where any return required under sub-section (*1*) in respect of any rubber estate is not furnished to the Committee within the period specified in the notice, the Committee may refuse to grant any permission under section 29 to plant rubber plants on that estate, or to replant any part of that estate.

CHAPTER IV.

SUPPLEMENTAL.

32. No rubber shall be imported by sea or by land into British India from any place outside India [2][and Burma] unless covered by a certificate of origin issued by an official empowered in that behalf by the Government of the country where the rubber was grown or produced. **Certificate of origin for imported rubber.**

33. No person shall export the leaves, flowers, seeds, buds, twigs, branches, roots or any living portion of the rubber plant that may be used to propagate it. **Prohibition of export of leaves, etc., of rubber plants.**

34. (*1*) The owner of every rubber estate or factory and every person holding stocks of rubber shall submit to the Committee at such time and in **Submission of returns showing**

[1] Subs. by the A. O. for "L. G."
[2] Ins. by the A. O.

(Chapter IV.—Supplemental. Chapter V.—Penalties and Procedure.)

stocks of rubber in India. such form as may be prescribed a return showing the stocks of rubber held by him together with such further information in regard thereto as may be prescribed.

(2) The Committee shall compile from such returns and submit to the [1][Central Government] at such times and in such form as may be prescribed consolidated statements showing the total amount of stocks of rubber held in British India [2]* * *.

Member may inspect factories. **35.** Any member of the Committee or of a sub-committee and any officer of the Committee authorised by it in this behalf may, at any reasonable time, enter upon and inspect any factory, and may require any owner of a factory to produce for inspection any records of the factory in his control or custody relating to the manufacture in and export from the factory of rubber or to the stocks of rubber held in the factory.

Power to make rules. **36.** The [1][Central Government] may, by notification in the [3][Official Gazette], make rules[4]—

(*a*) prescribing the dates on which and the form in which returns of stocks shall be submitted to the Committee;

(*b*) prescribing the further information, if any, to be included in such returns;

(*c*) prescribing the dates on which and the form in which consolidated statements of stocks shall be submitted by the Committee; and

(*d*) generally to carry out the purposes of this Chapter.

CHAPTER V.

PENALTIES AND PROCEDURE.

Penalty for illicit import or export. **37.** A breach of the provisions of sub-section *(1)* or sub-section *(2)* of section 20 or of section 32 or of section 33 shall be punishable as if it were an offence under item 8 of section 167 of the Sea Customs Act, 1878, and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly. VIII of 1878

Penalty for default in submitting return. **38.** If default is made in submitting any return as required by sub-section *(1)* of section 34 the owner of the estate or factory as the case may be shall be punishable with fine which may extend to five hundred rupees.

Penalty for making false return. **39.** Any owner of a rubber estate or factory or any person holding stocks of rubber, who has furnished any return under sub-section *(1)* of section 21,

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[1] Subs. by the A. O. for "G. G. in C."
[2] The words "excluding Burma, and in Burma" rep by the A. O.
[3] Subs by the A. O. for "Gazette of India".
[4] *See* the Indian Rubber Control Rules, 1936, published in the Gazette of India, 1936, Pt. I, pp. 1609 to 1614.

or sub-section (*1*) of section 31 or sub-section (*1*) of section 34 containing any particular which is false and which he knew to be false or did not believe to be true, shall be punishable with fine which may extend to one thousand rupees.

40. Whoever obstructs any member of the Committee or of a sub-committee or any officer of the Committee while such member or officer is entering upon or inspecting any rubber estate under sub-section (*2*) of section 31, and whoever, having control over or custody of any records of a rubber estate relating to the cultivation and stocks of rubber on that estate, refuses or fails to produce such records when required by a member of the Committee or of a sub-committee or an officer of the Committee under that sub-section, shall be punishable with fine which may extend to one thousand rupees. Penalty for obstructing inspection of rubber estate.

41. Whoever obstructs any member of the Committee or of a sub-committee or any officer of the Committee while such member or officer is entering upon or inspecting a factory under section 35, and whoever, having control over or custody of any records of a factory relating to the manufacture in or export from the factory of rubber or to the stocks of rubber held in the factory, refuses or fails to produce such records when required by a member of the Committee or of a sub-committee or an officer of the Committee under that section, shall be punishable with fine which may extend to one thousand rupees. Penalty for obstructing inspection of factory.

42. Whoever plants rubber plants or causes rubber plants to be planted or replants or causes to be replanted any land in contravention of section 26 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence Penalty for illicit cultivation.

43. Where any person has been convicted of an offence under section 42 the convicting Court shall direct that the rubber plants in respect of which the offence was committed shall be removed from the land within a prescribed time, and in the event of the order not being duly complied with shall cause the rubber plants to be removed and recover the cost from the person convicted as if it were an arrear of land revenue due on the rubber estate on which the offence was committed. Removal of rubber plants planted without permission.

44. (*1*) No Magistrate other than a Magistrate of the first class shall take cognizance of an offence under sections 38, 39, 40, 41 or 42 and such Magistrate may take cognizance of such an offence only upon complaint made by a person authorised by the Committee in this behalf, and with the previous sanction of the [1][Central Government in the case of offences under sections 38 and 41, and in the case of offences under section 39 arising from false returns under sub-section (*1*) of section 21 or sub-section (*1*) of section 34, and of the Provincial Government in other cases]. Trial of offences under sections 38, 39, 40, 41 and 42.

(*2*) The Committee shall be responsible for the conduct of all prosecutions of offences under sections 38, 39, 40, 41 and 42.

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[1] Subs. by the A. O. for "L. G."

THE PETROLEUM ACT, 1934.

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ACT No. XXX OF 1934.[1]

[*6th September, 1934.*]

An Act to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum and other inflammable substances.

WHEREAS it is expedient to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum and other inflammable substances ; It is hereby enacted as follows :—

PRELIMINARY

1. (*1*) This Act may be called the Petroleum Act, 1934. Short title, extent and commencement.

(*2*) It extends[2] to the whole of British India, including British Baluchistan and the Sonthal Parganas.

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[1] [illegible]

tended to Berar by s. 3 of the latter Act.

(*3*) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "petroleum" means *any liquid hydrocarbon or mixture* of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon;

(*b*) "dangerous petroleum" means petroleum having its flashing-point below seventy-six degrees Fahrenheit;

(*c*) "flashing-point" of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of Chapter II and the rules made thereunder;

(*d*) "to transport" petroleum means to move petroleum from one place to another in British India, and includes moving from one place to another in British India by sea or across territory in India which is not part of British India;

(*e*) "to import" petroleum means to bring it into British India by land, sea or air, otherwise than during the course of transport;

(*f*) "to store" petroleum means to keep it in any one place, but does not include any detention happening during the ordinary course of transport;

(*g*) "motor conveyance" means any vehicle, vessel or aircraft for the conveyance of human beings, animals or goods, by land, water or air, in which petroleum is used to generate the motive power;

(*h*) "prescribed" means prescribed by rules made under this Act.

CHAPTER I.

CONTROL OVER PETROLEUM.

Import, transport and storage of petroleum.

3. (*1*) *No one shall import, transport or store any petroleum save in* accordance with the rules made under section 4.

(*2*) Save in accordance with the conditions of any licence for the purpose which he may be required to obtain by rules made under section 4, no one shall import any dangerous petroleum, and no one shall transport or store any petroleum.

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[1] 30th March, 1937: see Gazette of India, 1937, Pt. I, p. 632.
[2] Subs by the A. O. for "G. G in C."
[3] Subs by the A O. for "Gazette of India".

(*Chapter I.—Control over Petroleum.*)

Rules for the import, transport and storage of petroleum.

4. The [1][Central Government] may make rules[2]—

(*a*) prescribing places where petroleum may be imported and prohibiting its import elsewhere ;

(*b*) regulating the import of petroleum ;

(*c*) prescribing the periods within which licences for the import of dangerous petroleum shall be applied for, and providing for the disposal, by confiscation or otherwise, of any dangerous petroleum in respect of which a licence has not been applied for within the prescribed period or has been refused and which has not been exported ;

(*d*) regulating the transport of petroleum ,

(*e*) specifying the nature and condition of all receptacles and pipe-lines in which petroleum may be transported ,

(*f*) regulating the places at which and prescribing the conditions subject to which petroleum may be stored ,

(*g*) specifying the nature, situation and condition of all receptacles in which petroleum may be stored ,

(*h*) prescribing the form and conditions of licences for the import of dangerous petroleum, and for the transport or storage of any petroleum, the manner in which applications for such licences shall be made, the authorities which may grant such licences and the fees which may be charged for such licences ;

(*i*) determining in any class of cases whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier ,

(*j*) providing for the granting of combined licences for the import, transpot and storage of petroleum, or for any two of such purposes ,

(*k*) prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion ; and

(*l*) generally, providing for any matter which in [3][its] opinion is expedient for proper control over the import, transport and storage of petroleum.

Production, refining and blending of petroleum.

5. (*1*) No one shall produce, refine or blend petroleum save in accordance with the rules made under sub-section (*2*).

[1] Subs. by the A O. for "G G in C."
[2] *See* the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 720 to 775
[3] Subs. by the A O. for "his"

(*Chapter I.—Control over Petroleum.*)

(2) The [1][Central Government] may make rules[2]—

(*a*) prescribing the conditions subject to which petroleum may be produced, refined or blended; and

(*b*) regulating the removal of petroleum from places where it is produced, refined or blended and preventing the storage therein and removal therefrom, except as dangerous petroleum, of any petroleum which has not satisfied the prescribed tests.

[3]* * * * * * * *

Receptacles of dangerous petroleum to show a warning

6. All receptacles containing dangerous petroleum shall have a stamped, embossed, painted or printed warning, either on the receptacle itself or, where that is impracticable, displayed near the receptacle, exhibiting in conspicuous characters the words " Petrol " or " Motor Spirit ", or an equivalent warning of the dangerous nature of the petroleum:

Provided that this section shall not apply to—

(*a*) any securely stoppered glass, stoneware or metal receptacle of less than two gallons capacity containing dangerous petroleum which is not for sale, or

(*b*) a tank incorporated in a motor conveyance, or attached to an internal combustion engine, and containing petroleum intended to be used to generate motive power for the motor conveyance or engine, or

(*c*) a pipe-line for the transport of petroleum, or

(*d*) any tank which is wholly underground, or

(*e*) any class of receptacles which the [1][Central Government] may, by notification[4] in the [5][Official Gazette], exempt from the operation of this section.

No licence needed for small stocks of non-dangerous petroleum not in bulk.

7. Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the transport or storage of non-dangerous petroleum if the total quantity in his possession at any one place does not exceed five hundred gallons and none of it is contained in a receptacle exceeding two hundred gallons in capacity.

No licence needed for small quantities of dangerous petroleum.

8. (*1*) Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the import, transport or storage of dangerous petroleum not intended for sale if the total quantity in his possession does not exceed six gallons.

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[1] Subs. by the A. O. for " G. G. in C."

[2] *See* the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 720 to 775.

[3] Sub-section (*3*) rep. by the A. O.

[4] For notification exempting tanks within installations or refineries or at or near oil wells, and receptacles in the possession of His Majesty's forces, *see* Gazette of India, 1937, Pt. I, p. 632.

[5] Subs. by the A. O. for " Gazette of India ".

(2) Dangerous petroleum possessed without a licence under this section shall be kept in securely stopped receptacles of glass, stoneware or metal which shall not in the case of receptacles of glass or stoneware exceed one quart in capacity or in the case of receptacles of metal five gallons in capacity.

Exemptions for motor conveyances and stationary engines.

9. (1) The owner of a motor conveyance, who complies with requirements of the law for the time being in force relating to the registration and licensing of such conveyance and its driver or pilot and the owner of any stationary internal combustion engine, shall not be required to obtain a licence—

(a) for the import, transport or storage of any petroleum contained in any fuel tank incorporated in the conveyance or attached to the internal combustion engine, or

(b) for the transport or storage of dangerous petroleum, not exceeding twenty gallons in quantity in addition to any quantity possessed under clause (a),

provided the petroleum is intended to be used to generate motive power for the motor conveyance or engine.

(2) The dangerous petroleum transported or stored without a licence under clause (b) shall be kept as provided in sub-section (2) of section 8, and, if it exceeds six gallons in quantity, shall be stored in an isolated place which does not communicate with any room where any person resides or works or in any room where persons assemble.

No licence needed by railway administration acting as carrier.

10. Notwithstanding anything contained in this Chapter, a railway administration, as defined in section 3 of the Indian Railways Act, 1890, need not obtain any licence for the import or transport of any petroleum in its possession in its capacity as carrier. [of 1890.]

Exemption of heavy oils.

11. Nothing in this Chapter shall apply to any petroleum which has its flashing-point not below two hundred degrees Fahrenheit.

General power of exemption.

12. The [1][Central Government] may, by notification[2] in the [3][Official Gazette], exempt any petroleum specified in the notification from all or any of the provisions of this Chapter.

Inspection of places.

13. (1) The [1][Central Government] may authorise[4] any officer by name or by virtue of office to enter any place where petroleum is being imported, stored, produced, refined or blended, or is under transport, and inspect all receptacles, plant and appliances used in connection with petroleum in order to ascertain if they are in accordance with the provisions of this Chapter and the rules made thereunder.

(2) The [1][Central Government] may make rules regulating the procedure of officers authorised under this section.

[1] Subs by the A O for "G. G in C"
[2] For instance of such a notification, see Gazette of India, 1937, Pt I, p 632.
[3] Subs. by the A O for "Gazette of India"
[4] For instance of such authorisation, see Gazette of India, 1937, Pt. I, p. 631.

(Chapter II.—The Testing of Petroleum.)

CHAPTER II.

THE TESTING OF PETROLEUM.

Inspection and sampling of petroleum

14. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], authorise[3] any officer by name or by virtue of office to enter any place where petroleum is being imported, transported, stored, produced, refined or blended and to inspect and take samples for testing of any petroleum found therein.

(*2*) The [1][Central Government] may make rules[4]—

(*a*) regulating the taking of samples of petroleum for testing,

(*b*) determining the cases in which payment shall be made for the value of samples taken, and the mode of payment, and

(*c*) generally, regulating the procedure of officers exercising powers under this section

Standard Test Apparatus.

15. (*1*) A standard apparatus for determining the flashing-point of petroleum shall be deposited with an officer to be appointed in this behalf by the [1][Central Government], by notification in the [2][Official Gazette].

(*2*) Such apparatus shall be engraved with the words "Standard Test Apparatus", and shall be verified and corrected from time to time and replaced when necessary, in accordance with rules made under section 21.

(*3*) The Standard Test Apparatus shall, on payment of the prescribed fee, be open to inspection at all reasonable times by any person wishing to inspect it.

Certification of other test apparatus.

16. (*1*) The officer appointed under section 15 shall, on payment of the prescribed fee, if any, compare with the Standard Test Apparatus any apparatus for determining the flashing-point of petroleum which may be submitted to him for this purpose.

(*2*) If any apparatus is found by him to agree with the Standard Test Apparatus within prescribed limits, the officer shall engrave such apparatus with a special number and with the date of the comparison, and shall give a certificate in respect of it in the prescribed form, certifying that on the said date the apparatus was compared with the Standard Test Apparatus and was found to agree with it within the prescribed limits, and specifying any corrections to be made in the results of tests carried out with the apparatus.

(*3*) A certificate granted under this section shall be valid for such period as may be prescribed.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".
[3] For instance of such authorisation, *see* Gazette of India, 1937, Pt. I, p. 631
[4] *See* the Petroleum Rules, 1937 : *ibid.*, pp. 720 to 775.

(*4*) A certificate granted under this section shall, during the period for which it is valid, be proof, until the contrary is proved, of any matter stated therein.

(*5*) The officer shall keep a register in the prescribed form of all certificates granted by him under this section

17. The [1][Central Government] may authorise any officer by name or by virtue of office to test petroleum of which samples have been taken under this Act, or which may have been submitted to him for test by any person, and to grant certificates of the results of such tests. Testing officers.

18. All tests of petroleum made under this Act shall be made with a test apparatus in respect of which there is a valid certificate under section 16, shall have due regard to any correction specified in that certificate, and shall be carried out in accordance with rules made under section 21. Manner of test.

19. (*1*) The testing officer after testing samples of petroleum shall make out a certificate in the prescribed form, stating whether the petroleum is dangerous or non-dangerous, and, if the petroleum is non-dangerous, the flashing-point of the petroleum. Certificate of testing.

(*2*) The testing officer shall furnish the person concerned, at his request, with a certified copy of the certificate, on payment of the prescribed fee, and such certified copy may be produced in any Court in proof of the contents of the original certificate.

(*3*) A certificate given under this section shall be admitted as evidence in any proceedings which may be taken under this Act in respect of the petroleum from which the samples were taken, and shall, until the contrary is proved, be conclusive proof that the petroleum is dangerous or non-dangerous, as the case may be, and, if the petroleum is non-dangerous, of its flashing-point.

20. (*1*) The owner of any petroleum, or his agent, who is dissatisfied with the result of the test of the petroleum may, within seven days from the date on which he received intimation of the result of the test, apply to the officer empowered under section 14 to have fresh samples of the petroleum taken and tested. Right to require re-test.

(*2*) On such application and on payment of the prescribed fee, fresh samples of the petroleum shall be taken in the presence of such owner or agent or person deputed by him, and shall be tested in the presence of such owner or agent or person deputed by him.

(*3*) If, on such re-test, it appears that the original test was erroneous, the testing officer shall cancel the original certificate granted under section 19, shall make out a fresh certificate, and shall furnish the owner of the petroleum, or his agent, with a certified copy thereof, free of charge.

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[1] Subs. by the A. O. for "G. G. in C."

CHAPTER II.

THE TESTING OF PETROLEUM.

Inspection and sampling of petroleum.

14. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], authorise[3] any officer by name or by virtue of office to enter any place where petroleum is being imported, transported, stored, produced, refined or blended and to inspect and take samples for testing of any petroleum found therein.

(*2*) The [1][Central Government] may make rules[4]—

(*a*) regulating the taking of samples of petroleum for testing,

(*b*) determining the cases in which payment shall be made for the value of samples taken, and the mode of payment, and

(*c*) generally, regulating the procedure of officers exercising powers under this section.

Standard Test Apparatus.

15. (*1*) A standard apparatus for determining the flashing-point of petroleum shall be deposited with an officer to be appointed in this behalf by the [1][Central Government], by notification in the [2][Official Gazette].

(*2*) Such apparatus shall be engraved with the words "Standard Test Apparatus", and shall be verified and corrected from time to time and replaced when necessary, in accordance with rules made under section 21.

(*3*) The Standard Test Apparatus shall, on payment of the prescribed fee, be open to inspection at all reasonable times by any person wishing to inspect it.

Certification of other test apparatus.

16. (*1*) The officer appointed under section 15 shall, on payment of the prescribed fee, if any, compare with the Standard Test Apparatus any apparatus for determining the flashing-point of petroleum which may be submitted to him for this purpose.

(*2*) If any apparatus is found by him to agree with the Standard Test Apparatus within prescribed limits, the officer shall engrave such apparatus with a special number and with the date of the comparison, and shall give a certificate in respect of it in the prescribed form, certifying that on the said date the apparatus was compared with the Standard Test Apparatus and was found to agree with it within the prescribed limits, and specifying any corrections to be made in the results of tests carried out with the apparatus.

(*3*) A certificate granted under this section shall be valid for such period as may be prescribed.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".
[3] For instance of such authorisation, *see* Gazette of India, 1937, Pt. I, p. 631.
[4] *See* the Petroleum Rules, 1937 : *ibid.*, pp. 720 to 775.

(Chapter II.—The Testing of Petroleum.)

Power to make rules regarding tests

21. The [1][Central Government] may make rules[2]—

(*a*) for the specification, verification, correction and replacement of the Standard Test Apparatus;

(*b*) prescribing fees for the inspection of the Standard Test Apparatus;

(*c*) regulating the procedure in comparing a test apparatus with the Standard Test Apparatus;

(*d*) prescribing the form of certificate to be given in respect of a test apparatus so compared, and the period for which such certificates shall be valid,

(*e*) prescribing the form of the register of such certificates;

(*f*) prescribing fees for comparing a test apparatus with the Standard Test Apparatus;

(*g*) regulating the procedure of testing officers in carrying out tests of petroleum, providing for the averaging of results where several samples of the same petroleum are tested, and prescribing the variations from standard temperatures which may be allowed;

(*h*) prescribing the form of certificates of tests of petroleum and the fees which may be charged therefor;

(*i*) providing, where the results of the testing of samples raise a doubt as to the uniformity of the quality of the petroleum in any lot under test, for the division of the lot into sub-lots, and for the selection and testing of samples of each sub-lot and for the averaging of results in accordance with the results of tests of those samples;

(*j*) prescribing fees for re-tests under section 20 and providing for their refund where the original test was erroneous; and

(*k*) generally, regulating the procedure of all officers performing duties connected with the testing of petroleum, and providing for any matter incidental to such testing.

Special rules for testing viscous or solid forms of petroleum.

22. The [1][Central Government] may also make rules[2] providing specially for the testing of any form of petroleum which is viscous or solid or contains sediment or thickening ingredients, and such rules may modify or supplement any of the provisions of this Chapter or of the rules made under section 21 in order to adapt them to the special needs of such tests.

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[1] Subs. by the A. O. for "G. G. in C."
[2] *See* the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 720 to 775.

CHAPTER III.

PENALTIES AND PROCEDURE.

General penalty for offences under this Act.

23. (*1*) Whoever—

(*a*) in contravention of any of the provisions of Chapter I or of any of the rules made thereunder, imports, transports, stores, produces, refines or blends any petroleum, or

(*b*) contravenes any rule made under section 4 or section 5, or

(*c*) breaks the condition of any licence held by him, issued under section 4, or

(*d*) being for the time being in control or in charge of any place where petroleum is being imported, stored, produced, refined or blended or is under transport, refuses or neglects to show to any officer authorised under section 13 any receptacle, plant or appliance used in such place in connection with petroleum, or in any way obstructs or fails to render reasonable assistance to such officer during an inspection, or

(*e*) being for the time being in control or in charge of any place where petroleum is being imported, transported, stored, produced, refined or blended, refuses or neglects to show to any officer authorised under section 14 any petroleum in such place, or to give him such assistance as he may require for the inspection of such petroleum, or refuses to allow him to take samples of the petroleum, or

(*f*) being required, under section 27, to give information of an accident fails to give such information as so required by that section,

shall be punishable with fine which may extend to five hundred rupees.

(*2*) If any person, having been convicted of an offence punishable under sub-section (*1*), is again guilty of any offence punishable under that sub-section, he shall be punishable for every such subsequent offence with fine which may extend to two thousand rupees.

Confiscation of petroleum and receptacles.

24. (*1*) In any case in which an offence under clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*1*) of section 23 has been committed, the convicting Magistrate may direct that—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is convicted of importing, transporting or storing petroleum exceeding the quantity he is permitted to import, transport or store, as the case may be, the whole of the petroleum in respect of which the offence was committed,

shall, together with the receptacles in which it is contained, be confiscated.

(*Chapter II.—The Testing of Petroleum.*)

Power to make rules regarding tests.

21. The [1][Central Government] may make rules[2]—

(*a*) for the specification, verification, correction and replacement of the Standard Test Apparatus ;

(*b*) prescribing fees for the inspection of the Standard Test Apparatus ;

(*c*) regulating the procedure in comparing a test apparatus with the Standard Test Apparatus ;

(*d*) prescribing the form of certificate to be given in respect of a test apparatus so compared and the period for which such certificates shall be valid ;

(*e*) prescribing the form of the register of such certificates ;

(*f*) prescribing fees for comparing a test apparatus with the Standard Test Apparatus ;

(*g*) regulating the procedure of testing officers in carrying out tests of petroleum, providing for the averaging of results where several samples of the same petroleum are tested, and prescribing the variations from standard temperatures which may be allowed ;

(*h*) prescribing the form of certificates of tests of petroleum and the fees which may be charged therefor ;

(*i*) providing, where the results of the testing of samples raise a doubt as to the uniformity of the quality of the petroleum in any lot under test, for the division of the lot into sub-lots, and for the selection and testing of samples of each sub-lot and for the averaging of results in accordance with the results of tests of those samples ;

(*j*) prescribing fees for re-tests under section 20 and providing for their refund where the original test was erroneous ; and

(*k*) generally, regulating the procedure of all officers performing duties connected with the testing of petroleum, and providing for any matter incidental to such testing.

Special rules for testing viscous or solid forms of petroleum.

22. The [1][Central Government] may also make rules[2] providing specially for the testing of any form of petroleum which is viscous or solid or contains sediment or thickening ingredients, and such rules may modify or supplement any of the provisions of this Chapter or of the rules made under section 21 in order to adapt them to the special needs of such tests.

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[1] Subs. by the A. O. for " G. G. in C."
[2] *See* the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 720 to 775.

CHAPTER III.

PENALTIES AND PROCEDURE.

General penalty for offences under this Act.

23. *(1)* Whoever—

(*a*) in contravention of any of the provisions of Chapter I or of any of the rules made thereunder, imports, transports, stores, produces, refines or blends any petroleum, or

(*b*) contravenes any rule made under section 4 or section 5, or

(*c*) breaks the condition of any licence held by him, issued under section 4, or

(*d*) being for the time being in control or in charge of any place where petroleum is being imported, stored, produced, refined or blended or is under transport, refuses or neglects to show to any officer authorised under section 13 any receptacle, plant or appliance used in such place in connection with petroleum, or in any way obstructs or fails to render reasonable assistance to such officer during an inspection, or

(*e*) being for the time being in control or in charge of any place where petroleum is being imported, transported, stored, produced, refined or blended, refuses or neglects to show to any officer authorised under section 14 any petroleum in such place, or to give him such assistance as he may require for the inspection of such petroleum, or refuses to allow him to take samples of the petroleum, or

(*f*) being required, under section 27, to give information of an accident fails to give such information as so required by that section,

shall be punishable with fine which may extend to five hundred rupees.

(2) If any person, having been convicted of an offence punishable under sub-section *(1)*, is again guilty of any offence punishable under that sub-section, he shall be punishable for every such subsequent offence with fine which may extend to two thousand rupees.

Confiscation of petroleum and receptacles.

24. *(1)* In any case in which an offence under clause (*a*) or clause (*b*) or clause (*c*) of sub-section *(1)* of section 23 has been committed, the convicting Magistrate may direct that—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is convicted of importing, transporting or storing petroleum exceeding the quantity he is permitted to import, transport or store, as the case may be, the whole of the petroleum in respect of which the offence was committed,

shall, together with the receptacles in which it is contained, be confiscated.

(Chapter III.—Penalties and Procedure.)

(2) This power may also be exercised by the High Court in the exercise of its appellate or revisional powers.

Jurisdiction.

25. Offences punishable under this Act shall be triable, in the Presidency-towns, by a Presidency Magistrate, and elsewhere by a Magistrate of the first class, or by a Magistrate of the second class who has been specially empowered by the [1][Central Government] in this behalf.

Power of entry and search

26. *(1)* The [2][Central Government] may, by notification in the [3][Official Gazette], authorise[4] any officer by name or by virtue of office to enter and search any place where he has reason to believe that any petroleum is being imported, transported, stored, produced, refined or blended otherwise than in accordance with the provisions of this Act and the rules made thereunder, and to seize, detain or remove any or all of the petroleum in respect of which in his opinion an offence under this Act has been committed.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches shall, so far as they are applicable, apply to searches by officers authorised under this section V of 1898

(3) The [2][Central Government] may make rules regulating the procedure of authorised officers in the exercise of their powers under this section subject, however, to the provisions of sub-section *(2)*.

Reports of accidents with petroleum.

27. Where any accident by explosion or fire, which is attended with loss of human life or serious injury to person or property, occurs as the result of the ignition of petroleum or petroleum vapour, or occurs in or near any place where petroleum is kept and under circumstances making it likely that it was the result of such ignition, the person for the time being in charge of the petroleum shall forthwith give information to the nearest Magistrate or to the officer in charge of the nearest police station.

Inquiries into serious accidents with petroleum.

28. *(1)* The inquiry mentioned in section 176 of the Code of Criminal Procedure, 1898, shall be held in all cases where any person has been killed by an accident which the Magistrate has reason to believe was the result of the ignition of petroleum or petroleum vapour. V of 1898.

(2) Any Magistrate empowered to hold an inquest may also hold an inquiry under the said section into the cause of any accident which he has reason to believe was the result of the ignition of petroleum or petroleum vapour, if such accident was attended by serious injury to person or property, notwithstanding that no person was killed thereby.

(3) For the purposes of this section a Commissioner of Police in a Presidency-town [5]* * * shall be deemed to be a Magistrate empowered to hold an inquest.

(4) The result of all inquiries held in pursuance of this section shall be submitted as soon as may be to the [1][Central Government and the Provincial Government].

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O for "G. G. in C."
[3] Subs. by the A. O. for "Gazette of India".
[4] For instance of such authorisation, *see* Gazette of India, 1937, Pt. I, p. 632.
[5] The words "or in Rangoon" rep. by the A. O.

(*Chapter IV.—Supplemental.*)

CHAPTER IV.

SUPPLEMENTAL.

29. (*1*) In making any rules under this Act, the [1][Central Government] may— Provisions relating to rules

(*a*) provide for any matter ancillary to such rules for which in [2][its] opinion provision is necessary to protect the public from danger arising from the import, transport, storage, production, refining or blending of petroleum, and

(*b*) make special provision for the special circumstances of any Province or place.

(*2*) Every power to make rules conferred by this Act is subject to the condition of previous publication.

(*3*) All rules made under this Act shall be published in the [3][Official Gazette] [4]* * *.

30. (*1*) The [1][Central Government] may, by notification[5] in the [3][Official Gazette], apply any or all of the provisions of this Act, and of the rules made thereunder with such modifications as [6][it] may specify, to any dangerously inflammable substance, other than an explosive, and thereupon the provisions so applied shall have effect as if such substance had been included in the definition of petroleum Power to apply Act to other substances.

(*2*) The [1][Central Government] may make rules providing specially for the testing of any substance to which any of the provisions of this Act have been applied by notification under sub-section (*1*), and such rules may supplement any of the provisions of Chapter II in order to adapt them to the special needs of such tests.

31. Where any enactment confers powers upon any local authority in respect of the transport or storage of petroleum, the [1][Central Government] may, by notification in the [3][Official Gazette],— Power to limit powers of local authorities over petroleum.

(*a*) limit the operation of such enactment, or

(*b*) restrict the exercise of such powers, in any manner [6][it] deems fit

32. [*Repeals*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE SCHEDULE.—[ENACTMENTS REPEALED.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

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[1] Subs by the A O for "G G in C"
[2] Subs by the A. O for "his".
[3] Subs by the A. O. for "Gazette of India"
[4] The words "and in the local official Gazette" rep by the A O
[5] For notification extending certain sections of the Act to calcium phosphide, see Gazette of India, 1937, Pt I, p. 632
[6] Subs by the A. O for "he".

THE IRON AND STEEL DUTIES ACT, 1934.

ACT NO. XXXI OF 1934.[1]

[7th September, 1934.]

An Act to provide for the modification and continuance of the protection afforded to the iron and steel industry in British India, and to impose an excise duty for revenue purposes upon certain steel.

WHEREAS it is expedient to provide for the modification and continuance of the protection afforded to the iron and steel industry in British India, and to impose an excise duty for revenue purposes upon certain steel; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Iron and Steel Duties Act, 1934.

(*2*) It extends to the whole of British India.

(*3*) This section [2]* * shall come into force at once; the remaining sections shall come into force on the 1st day of November, 1934.

2 & 3. [*Amendment of section 3 and Schedule II, Act VIII of 1894.*] *Rep. by the Repealing and Amending Act, 1935 (XII of 1935), s. 3 and Sch. II.*

Excise duty on steel ingots.

4. A duty of excise shall be levied at the rate of four rupees per ton on all steel ingots produced in British India after the commencement of this Act, and shall be payable by the manufacturer thereof.

Recovery of duty with penalty.

5. (*1*) If any duty payable under section 4 is not paid within the time fixed by rules made in that behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may in lieu thereof recover any sum not exceeding twice the amount of duty unpaid which such authority may in its discretion think it reasonable to require.

(*2*) An arrear of duty or any sum recoverable in lieu thereof under this section shall be recoverable as an arrear of land revenue, and shall be recoverable in addition to and not in substitution for any other penalty incurred under this Act.

Application of the provisions of Act VIII of 1878 to the duty on steel ingots.

6. The [3][Central Government] may, by notification in the [4][Official Gazette], declare[5] that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations as [6][it] may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on steel ingots imposed by section 4. VIII of 187

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[1] For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 204; and [illegible] 35 [illegible] 14, [illegible]

[6] Subs. by the A. O. for "he".

Rebate on export of steel ingots and articles manufactured therefrom.

7. When steel ingots on which the duty of excise imposed by this Act has been paid, or articles of iron or steel manufactured in British India from such ingots, are exported out of India, there shall be payable to the exporter of such ingots or articles, subject to such conditions[1] as the [2][Central Government] may prescribe, a refund at the following rates, namely —

on ingots, blooms and billets—a refund at the rate of four rupees per ton ;

on other manufactures of iron or steel—

(*a*) not fabricated—a refund at the rate of five and one-third rupees per ton ;

(*b*) fabricated—a refund at the rate of six rupees per ton

Penalty for evasion of duty or failure to supply information

8. Whoever evades or attempts to evade the payment of any duty of excise payable by him under this Act, or fails to supply any information which he is required by any rules made under this Act to supply, or knowingly supplies false information, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Power of Central Government to make rules

9. (*1*) The [2][Central Government] may, by notification in the [3][Official Gazette], make rules[1] to carry into effect the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) provide for the assessment and collection of the duty payable under section 4 and the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment the manner in which and the time at which the duty shall be payable, and the recovery of arrears ,

(*d*) impose on manufacturers of steel ingots the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information, and the form of such records and returns, the particulars to be contained therein and the manner in which they shall be verified ,

(*c*) authorise and regulate the inspection of any premises used for the manufacture of steel ingots ;

(*d*) authorise and regulate the composition of offences against or liabilities incurred under the Act and rules ; and

(*e*) prescribe the conditions under which the refunds referred to in section 7 shall be payable.

(*3*) In making any rule under this section the [2][Central Government] may provide that a breach of the rule shall be punishable with fine not exceeding two thousand rupees.

10. [*Repeal*.] *Rep. by the Repealing and Amending Act, 1935 (XII of 1935), s. 3 and Sch II.*

THE SCHEDULE.—Rep by the Repealing and Amending Act, 1935 (XII of 1935), s. 3 and Sch. II.

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[1] *See* the Steel Ingots (Excise Duty) Order, 1934, published in the Gazette of India, 1934, Pt. I, pp 1202 to 1205.

[2] Subs by the A. O for "G. G. in C."

[3] Subs by the A O. for "Gazette of India".

THE INDIAN TARIFF ACT, 1934.

ACT NO. XXXII OF 1934.[1]

[8th September, 1934.]

An Act to consolidate the law relating to customs duties.

WHEREAS it is expedient to consolidate the law relating to customs duties on goods imported into or exported from British India by sea and to customs duties on goods imported into or exported from British India by land, It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Tariff Act, 1934.

(*2*) It extends to the whole of British India [2]* *.

(*3*) *It shall come into force on such date*[3] *as the* [4][*Central Government*] may, by notification in the [5][Official Gazette], appoint in this behalf.

Duties specified in Schedules to be levied.

2. (*1*) There shall be levied and collected in every port to which this Act applies, the duties specified in the First and Second Schedules.

(*2*) The [4][Central Government] may, by notification in the [5][Official Gazette], fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the said Schedules as chargeable with duty *ad valorem* and may alter any tariff values for the time being in force.

(*3*) Different tariff values may be fixed for different classes or descriptions of the same article.

(*4*) *Nothing in this Act shall authorise the levy of customs duties on any* article carried from one customs port in British India to another such port except salt, opium and spirit.

Levy of duty where standard rate and preferential rate are specified.

3. (*1*) Where in respect of any article a preferential rate of revenue duty is specified in the First Schedule if the article is the produce or manufacture of the United Kingdom or of a British Colony, the duty to be levied and collected shall be at the standard rate, unless the article is the produce or manufacture of the United Kingdom or of a British Colony and the article is determined, in accordance with rules made under sub-section (*2*), to be such produce or manufacture.

(*2*) The [4][Central Government] may, by notification in the [5][Official Gazette], make rules—

(*a*) for determining if any article is the produce or manufacture of the United Kingdom or a British Colony; and

(*b*) making provision in cases where at the time of importation proof is not forthcoming where required in accordance with the rules

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1934, Pt. V, p. 329.
[2] The words "except the Chief Commissionership of Aden" rep. by the A. O.
[3] 1st January, 1935: *see* Gazette of India, 1934, Pt. I, p. 1377.
[4] Subs. by the A. O. for "G. G. in C."
[5] Subs. by the A. O. for "Gazette of India".

made under clause (*a*) that any article is the produce or manufacture of the United Kingdom or a British Colony—

(*i*) whereby duty may be levied at the standard rate and a refund given of the extra duty paid, if such proof is produced within a prescribed period, and

(*ii*) whereby duty may be accepted provisionally at the preferential rate on execution of a bond for the payment of the balance of duty if such proof is not produced within the prescribed period, and for the recovery of any balance due after the expiry of the prescribed period as if such balance were duty short-levied, within the meaning of section 39 of the Sea Customs Act, 1878 [VIII of 1878.]

(*3*) For the purposes of this section and of the First Schedule, the expression "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and the expression "British Colony" includes a British Protectorate and any of the Mandated Territories of Tanganyika, the Cameroons under British Mandate and Togoland under British Mandate.

Power of Central Government to alter protective duties

4. (*1*) Where, in respect of any article chargeable under the First Schedule with a duty characterised in the third column thereof as protective, the [1][Central Government] is satisfied, after such inquiry as [2][it] thinks necessary, that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India, [2][it] may, by notification in the [3][Official Gazette], increase or reduce such duty to such extent as [2][it] thinks necessary either generally or in respect of such article when imported from or manufactured in any country or countries specified in the notification:

Provided that the duty leviable on any such article shall in no case be less than the duty leviable on a like article of British manufacture

(*2*) The [1][Central Government] may, by notification in the [3][Official Gazette], prescribe the conditions subject to which articles shall be deemed to be of British manufacture for the purposes of this section and of the First Schedule.

Duties on imports and exports by land.

5. Where a customs duty at any rate prescribed by or under this Act or any other law for the time being in force is leviable on any article when imported into, or on any article when exported from, a port in British India, the [1][Central Government] may, by notification in the [3][Official Gazette], direct that a duty of customs at the like rate shall be leviable on any such article when imported or exported, as the case may be, by land from or to any territory outside British India, which [2][it] may, by a like notification, declare to be foreign territory for the purposes of this section.

Duty on salt, opium and spirit, when protected by a certificate.

6. (*1*) Salt, opium and spirit imported from any port in British India and protected by the certificate of any officer empowered in that behalf by the [1][Central Government] [4]* * are chargeable with only the amount, if any,

[1] Subs by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "he".
[3] Subs by the A. O. for "Gazette of India".
[4] The words "or the L. G." rep. by the A. O.

by which the duty leviable thereon under the First Schedule exceeds the duty shown by such certificate to have been already paid in respect thereof.

(2) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

(3) Nothing in this section applies to spirit which is exported under bond for excise duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878. VIII of 1878

7. [*Application of certain provisions as to duties and goods.*] *Rep. by the Land Customs (Amendment) Act, 1937 (III of 1937), s. 6 and Sch.*

Additional import duty on bounty-fed articles

8. (*1*) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the production therein or the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the [1][Central Government] may, by notification in the [2][Official Gazette], impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

(2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the [1][Central Government], and the [1][Central Government] may, by notification in the [2][Official Gazette], make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (*1*).

Special import duty on sugar in certain cases.

9. (*1*) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the [1][Central Government] may, by notification in the [2][Official Gazette], impose, in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess.

(2) The [1][Central Government] may, from time to time, by general or special order, declare, for the purposes of sub-section (*1*),—

(*a*) what articles or substances containing any saccharine matter shall be deemed to be "sugar" and what kinds of sugar shall be deemed to be "refined sugar" or "other sugar", respectively; and

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".

(*b*) what sums in the currency of British India shall be deemed to be the equivalent of "francs" and "centimes", respectively.

(3) The amount of the excess referred to in sub-section (*1*) shall be from time to time ascertained, determined and declared by the [1][Central Government], and the [1][Central Government] may, by notification in the [2][Official Gazette], make rules for the identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub-section (*1*).

10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,— In contracts amount of increased or decreased duty to be added or deducted.

(*a*) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, or any part thereof, is paid, the seller may add so much to the contract price as will be equivalent to the amount paid in respect of such duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(*b*) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay, or be sued for, or in respect of, such deduction.

11. (*1*) When the duty specified for any article in the First Schedule is characterised as protective in the third column of that Schedule, that duty shall have effect only up to the date, if any, specified in the seventh column of that Schedule. Duration of protective duties and power of Central Government to modify or remit certain duties.

(2) If, after such inquiry as [3][it] thinks necessary, the [1][Central Government] is of opinion that the duty specified in the First Schedule in respect of wheat has become unnecessary or excessive, [3][it] may, by notification in the [2][Official Gazette], remit such duty or reduce it to such extent as [3][it] thinks fit.

(3) If, after such inquiry as [3][it] thinks necessary, the [1][Central Government] is of opinion that the duty specified in the First Schedule in respect of wheat flour is excessive, [3][it] may, by notification in the [2][Official Gazette], reduce such duty to such extent as [3][it] thinks fit, but not so as to make it lower than an *ad valorem* duty of twenty per cent.

12. All notifications published under this Act may be cancelled by the authority publishing the same. Power to cancel notifications.

13. [*Repeals.*] *Rep by the Repealing and Amending Act, 1937* (*XX of 1937*), *s. 3 and Sch. II*

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[1] Subs by the A O. for "G. G. in C."
[2] Subs. by the A O for "Gazette of India".
[3] Subs. by the A. O. for "he".

THE FIRST SCHEDULE.

IMPORT TARIFF.

Item No.	Name of article.	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
			SECTION I. LIVE ANIMALS AND PRODUCTS OF THE ANIMAL KINGDOM.			
1	ANIMALS, living, all sorts.	..	Free	..	..	..
2	BACON and HAM, not canned or bottled.	Revenue .	25 per cent. *ad valorem*.	..	..	..
3	FISH, not otherwise specified.	Revenue .	25 per cent. *ad valorem*.	..	..	..
3 (1)	FISH, salted, wet .	Revenue .	Such rate or rates of duty not exceeding one rupee per Indian maund of 82 ⅖ lbs. avoirdupois weight as the [1][Central Government] may, by notification in the [2][Official Gazette], from time to time prescribe, *plus* 6¼ per cent. *ad valorem*.	..	..	..
3 (2)	FISH, salted, dry .	Preferential revenue.	Rs. 3-8 per cwt. .	..	Re. 1-8 per cwt.	..
3 (3)	FISH, unsalted, dry .	Preferential revenue.	30 per cent. *ad valorem*.	..	20 per cent. *ad valorem*.	..
3 (4)	FISHMAWS, including singally and sozille and sharkfins.	Revenue .	25 per cent. *ad valorem*.	..	..	..
4	BUTTER, CHEESE and GHEE.	Revenue .	25 per cent. *ad valorem*.	..	..	..
4 (1)	MILK, condensed or preserved, including milk cream.	Preferential revenue.	30 per cent. *ad valorem*	20 per cent. *ad valorem*.	..	..
5	CORAL, unprepared .	Revenue .	25 per cent. *ad valorem*	..	..	..
5 (1)	COWRIES and SHELLS .	Revenue .	25 per cent. *ad valorem*.	..	..	..
5 (2)	IVORY, unmanufactured.	Preferential revenue.	30 per cent. *ad valorem*	..	20 per cent. *ad valorem*	..
			SECTION II. PRODUCTS OF THE VEGETABLE KINGDOM.			
6	PLANTS, living, not otherwise specified.	..	Free	..	..	..
6 (1)	RUBBER STUMPS .	..	Free	..	..	..
7	VEGETABLES, all sorts, fresh, dried, salted or preserved, not otherwise specified.	Preferential revenue.	30 per cent *ad valorem*.	..	20 per cent. *ad valorem*.	..

[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " Gazette of India ".

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
8	FRUITS, all sorts, fresh, dried, salted or preserved, not otherwise specified	Preferential revenue	30 per cent *ad valorem*	..	20 per cent *ad valorem.*	..
8 (1)	CURRANTS	Revenue	Re 1-4 per cwt.	..	..	..
9	COFFEE not otherwise specified	Preferential revenue	25 per cent *ad valorem plus* one anna per pound.	..	25 per cent *ad valorem.*	..
9 (1)	COFFEE, canned or bottled	Preferential revenue	30 per cent. *ad valorem.*	20 per cent. *ad valorem.*	20 per cent *ad valorem*	..
9 (2)	TEA	Preferential revenue	Five annas per pound	..	Three annas per pound	..
9 (3)	The following SPICES, namely —					
	Cardamoms, cassia, cinnamon, cloves, nutmegs and pepper—					
	(a) Unground	Preferential revenue	45 per cent *ad valorem*	..	37½ per cent. *ad valorem.*	..
	(b) Ground	Revenue	37½ per cent. *ad valorem.*	..	..	..
9 (4)	The following UNGROUND SPICES, namely.—					
	Chillies, ginger and mace.	Preferential revenue	30 per cent *ad valorem.*	..	22½ per cent. *ad valorem*	..
9 (5)	BETELNUTS	Preferential revenue	45 per cent. *ad valorem.*	..	37½ per cent. *ad valorem*	..
9 (6)	VANILLA BEANS	Preferential revenue.	30 per cent *ad valorem.*	..	20 per cent. *ad valorem.*	..
10	GRAIN and PULSE, not otherwise specified, including broken grains and pulse, but excluding flour	..	Free	..	..	..
[1]*	* * *	*	*	*	*	*
[2][10 (2)	*BROKEN RICE*	*Protective*	Twelve annas per Indian maund of 82 2/7 lbs. avoirdupois weight.	..	..	March 31st, 1939.]
11	FLOUR not otherwise specified.	Revenue	25 per cent. *ad valorem.*	..	..	..
[1]*	* * *	*	*	*	*	*
11 (2)	SAGO FLOUR	..	Free	..	..	..
11 (3)	SAGO and TAPIOCA	Preferential revenue.	30 per cent. *ad valorem.*	..	20 per cent. *ad valorem.*	..
11 (4)	STARCH and FARINA	Revenue	15 per cent *ad valorem*	..	..	..
12	SEEDS, all sorts not otherwise specified	Revenue	25 per cent. *ad valorem.*	..	..	..

[1] Item No. 10 (1) and Item No. 11 (1) were omitted by the Indian Tariff (Second Amendment) Act, 1937 (27 of 1937), s. 2, with retrospective effect from 1st April, 1937.

[2] Subs. by the Indian Tariff (Amendment) Act, 1937 (21 of 1937), s. 2, for the item ins. by the Indian Tariff (Amendment) Act, 1935 (2 of 1935), s. 2.

Item No.	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony	
12 (1)	OILSEEDS imported into British India by sea from the territories of any Prince or Chief in India	.	Free . . .	..	..	..
12 (2)	OILSEEDS, non-essential, all sorts not otherwise specified, including copra or coconut kernel	Preferential revenue	30 per cent *ad valorem*	..	20 per cent *ad valorem*	..
12 (3)	RUBBER SEEDS . .	..	Free . .	..	..	..
12 (4)	HOPS	..	Free . . .	..	..	..
12 (5)	FODDER, BRAN and POLLARDS	Revenue .	2½ per cent *ad valorem.*	..	..	..
13	DYEING and TANNING SUBSTANCES, all sorts not otherwise specified	Revenue .	25 per cent. *ad valorem*	..	..	..
13 (1)	BARKS for tanning .	..	Free . . .	..	..	..
13 (2)	CUTCH and GAMBIER, all sorts	Preferential revenue	30 per cent *ad valorem*	..	20 per cent *ad valorem*	..
13 (3)	GUMS, RESINS and LAC, all sorts not otherwise specified	Revenue .	25 per cent. *ad valorem*	..	..	..
13 (4)	GUMS, Arabic, Benjamin (ras and cowrie) and DAMMER (including unrefined batu) and rosin.	Preferential revenue	30 per cent. *ad valorem*	..	20 per cent *ad valorem.*	..
13 (5)	STICK or SEED LAC .	..	Free . . .	..	..	..
13 (6)	OPIUM . . .	Revenue .	Rs. 30 per seer of 80 tolas or 18¾ per cent. *ad valorem,* whichever is higher	..	..	..
13 (7)	CINCHONA BARK . .	..	Free . . .	..	..	..
14	CANES and RATTANS .	Revenue .	25 per cent. *ad valorem.*	..	..	..

SECTION III.

FATTY SUBSTANCES, GREASES, OILS AND PRODUCTS OF THEIR DECOMPOSITION; PREPARED ALIMENTARY FATS, WAXES OF ANIMAL OR VEGETABLE ORIGIN.

15	All sorts of STEARINE, WAX, GREASE and ANIMAL FAT not otherwise specified.	Revenue .	25 per cent *ad valorem*	..	..	..
15 (1)	LARD, not canned or bottled	Revenue .	25 per cent *ad valorem.*	..	..	..
15 (2)	BEESWAX . . .	Preferential revenue	30 per cent *ad valorem*	..	20 per cent *ad valorem*	..
15 (3)	TALLOW . . .	..	Free . .	..	..	..
15 (4)	FISH OIL including whale oil not otherwise specified .	Preferential revenue	30 per cent *ad valorem*	20 per cent *ad valorem*	..	..

Item No	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
15 (5)	FISH OIL and whale oil, hardened or hydrogenated	Revenue	Rs 10 per cwt .		.	.
15 (6)	VEGETABLE NON-ESSENTIAL OILS not otherwise specified	Preferential revenue	35 per cent *ad valorem*	25 per cent *ad valorem*	25 per cent *ad valorem*.	.
15 (7)	The following VEGETABLE NON-ESSENTIAL OILS, namely, coconut, groundnut and linseed	Preferential revenue	35 per cent *ad valorem*		25 per cent *ad valorem*.	.
15 (8)	All sorts of ANIMAL OILS not otherwise specified	Revenue	25 per cent *ad valorem*		.	..

SECTION IV.

PRODUCTS OF THE FOOD-PREPARING INDUSTRIES, BEVERAGES, ALCOHOLIC LIQUORS AND VINEGARS, TOBACCO

Item No	Name of article	Nature of duty.	Standard rate of duty	The United Kingdom	A British Colony	Duration of protective rates of duty
16	Canned or bottled BACON, HAM and LARD	Revenue	25 per cent *ad valorem*	.	.	..
16 (1)	FISH, canned	Preferential revenue	30 per cent *ad valorem*	20 per cent *ad valorem*	20 per cent *ad valorem*	..
16 (2)	ISINGLASS, canned or bottled	Revenue .	25 per cent. *ad valorem*		..	..
17	SUGAR excluding confectionery	Protective	[1][The rate at which excise duty is for the time being leviable on sugar, other than *khandsari* or palmyra sugar, produced in British India *plus* Rs 7 4 per cwt.]	.	..	March 31st, 1938
17 (1)	MOLASSES .	Revenue	31½ per cent *ad valorem*	..	..	..
17 (2)	CONFECTIONERY . .	Preferential revenue	50 per cent. *ad valorem*	40 per cent *ad valorem*	..	..
17 (3)	SUGAR-CANDY . .	Revenue .	Rs 10-8 per cwt	..	..	..
18	COCOA and CHOCOLATE other than confectionery	Preferential revenue	30 per cent. *ad valorem*.	20 per cent *ad valorem*	..	..
19	BISCUITS, CAKES, and farinaceous and patent foods, canned or bottled	Revenue .	25 per cent *ad valorem*	..	..	..
20	VEGETABLE PRODUCT, jams, jellies, pickles, chutnies, sauces and condiments, canned or bottled	Revenue .	25 per cent. *ad valorem*	..	..	..
20 (1)	FRUIT JUICES . .	Preferential revenue.	30 per cent *ad valorem*	20 per cent *ad valorem*	20 per cent *ad valorem*	..
20 (2)	FRUITS and VEGETABLES, canned or bottled.	Preferential revenue	30 per cent. *ad valorem*.	20 per cent *ad valorem*	20 per cent *ad valorem*	..
21	CANNED OR BOTTLED PROVISIONS, not otherwise specified.	Preferential revenue	30 per cent. *ad valorem*.	20 per cent. *ad valorem*	..	..

[1] Subs by the Indian Finance Act, 1937, s 4, for "Rs 9-1 per cwt."

Item No.	Name of article.	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of — The United Kingdom.	Preferential rate of duty if the article is the produce or manufacture of — A British Colony	Duration of protective rates of duty.
21 (1)	PROVISIONS and OILMAN'S STORES AND GROCERIES, all sorts not otherwise specified	Revenue	25 per cent *ad valorem*	..	..	..
21 (2)	All sorts of FOOD not otherwise specified	Revenue	25 per cent *ad valorem*		..	..
22	All sorts of DRINK not otherwise specified	Revenue	25 per cent *ad valorem*	..	..	..
22 (1)	ALE and BEER—					
	(a) In barrels or other containers containing 27 oz or more	Preferential revenue	Re 1 2 per Imperial gallon	Fourteen annas per Imperial gallon	..	..
	(b) In bottles containing less than 27 oz but not less than 20 oz	Preferential revenue	Three annas per bottle	Two annas and four pies per bottle.	..	..
	(c) In bottles containing less than 13½ oz but not less than 10 oz	Preferential revenue	One anna and six pies per bottle.	One anna and two pies per bottle		..
	(d) In bottles containing less than 6¾ oz but not less than 5 oz	Preferential revenue	Nine pies per bottle	Seven pies per bottle.		..
	(e) In other containers	Preferential revenue	Re 1-8 per Imperial gallon	Re 1-2-8 per Imperial gallon		..
22 (2)	PORTER, CIDER and other FERMENTED LIQUORS except ale and beer—					
	(a) In barrels or other containers containing 27 oz or more	Revenue	Fifteen annas per Imperial gallon.	..	..	..
	(b) In bottles containing less than 27 oz but not less than 20 oz	Revenue	Two annas and six pies per bottle	..	..	..
	(c) In bottles containing less than 13½ oz but not less than 10 oz	Revenue	One anna and three pies per bottle	..	..	..
	(d) In bottles containing less than 6¾ oz but not less than 5 oz	Revenue	Seven and half pies per bottle	..	..	..
	(e) In other containers	Revenue	Re 1-4 per Imperial gallon	..	..	..
22 (3)	WINES, not containing more than 42 per cent. of proof spirit—					
	(a) Champagne and other sparkling wines	Revenue	Rs 13-2 per Imperial gallon	..	..	..
	(b) Other sorts.	Revenue	Rs 7-8 per Imperial gallon.	..	..	..

Item No.	Name of article.	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
22 (4)	SPIRITS (other than denatured spirit)—					
	(a) Brandy, gin, whisky and other sorts of spirits not otherwise specified, including wines containing more than 42 per cent of proof spirit	Revenue	Rs 37 8 per Imperial gallon of the strength of London proof			..
	(b) Liqueurs, cordials, mixtures and other preparations containing spirit not otherwise specified—					
	(i) entered in such a manner as to indicate that the strength is not to be tested	Revenue	Rs 50 per Imperial gallon	..	..	..
	(ii) not so entered	Revenue	Rs 37-8 per Imperial gallon of the strength of London proof	..	..	..
	Provided that—					
	(a) the duty on any article included in this item shall in no case be less than the duty which would be charged if the article were liable to a duty of 25 per cent *ad valorem*,					
	(b) where the unit of assessment is the Imperial gallon of the strength of London proof, the duty shall be increased or reduced in proportion as the strength is greater or less than London proof.					
22 (5)	SPIRITS—					
	(a) Bitters—					
	(i) entered in such a manner as to indicate that the strength is not to be tested	Preferential revenue	Rs 50 per Imperial gallon	..	Rs 45 per Imperial gallon	..
	(ii) not so entered	Preferential revenue	Rs 37-8 per Imperial gallon of the strength of London proof	..	Rs 33-12 per Imperial gallon of the strength of London proof	..

Item No.	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
22 (5) —*contd.*	SPIRITS—*contd*					
	(*b*) Drugs and medicines containing spirit—					
	(i) entered [illegible]	Preferential [illegible]	Rs [illegible] Im- [illegible]	Rs 36 per Imperial gallon	Rs. 36 per Imperial gallon	..
	(ii) not so entered .	Preferential *revenue*	Rs 29 per Imperial *gallon of* the strength of London proof	Rs. 26 per *Imperial* gallon of the strength of London proof	Rs 26 per *Imperial* gallon of the strength of London proof.	..
	(*c*) Perfumed spirits .	Preferential revenue.	Rs. 60 per Imperial gallon	Rs. 52-8 per Imperial gallon	..	..
	(*d*) Rum . .	Preferential revenue.	Rs 37-8 per Imperial gallon of the strength of London proof.	..	Rs 33-12 per Imperial gal*lon of the* strength of London proof	..
	Provided that—					
	(*a*) on any article chargeable under this item with the lower rate of duty the duty levied shall in no case be less than 20 per cent. *ad valorem*, and on any article chargeable under this item with the higher rate of duty, the duty levied shall in no case be less than 30 per cent *ad valorem*;					
	(*b*) where the unit of assessment is the Imperial gallon of the strength of London proof, the duty shall be increased or reduced in proportion as the strength is greater or less than London proof					
22 (6)	DENATURED SPIRIT .	Revenue .	9⅜ per cent. *ad valorem*	..	..	..
22 (7)	VINEGAR in casks .	Revenue .	2½ per cent. *ad valorem*.	..	..	..
23	OILCAKES . . .	Revenue .	25 per cent. *ad valorem*.	..	..	..
24	TOBACCO, manufactured, not otherwise specified.	Revenue .	Rs 3-12 per lb. .	..	..	..

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
24 (1)	CIGARS	Revenue	112½ per cent. *ad valorem*	.	.	..
24 (2)	CIGARETTES	Revenue	25 per cent *ad valorem* and in addition either Rs 8-2 per thousand or Rs 3-4 per lb, whichever is higher	..		..
24 (3)	TOBACCO, unmanufactured.	Preferential revenue	Rs 3-4 per lb	.	Rs 2-12 per lb	.

SECTION V.

MINERAL PRODUCTS

Item No	Name of article	Nature of duty	Standard rate of duty	The United Kingdom	A British Colony	Duration of protective rates of duty.
25	CHINA CLAY	..	Free	..	.	..
25 (1)	SALT, excluding salt exempted under Item No 25 (2)	Revenue	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place	..		..
25 (2)	SALT imported into British India and issued, in accordance with rules made with the previous sanction of the [1][Central Government], for use in any process of manufacture, also salt imported into the port of Calcutta and issued with the sanction of the [2][Central Government] to manufacturers of glazed stoneware, also salt imported into any port in the Provinces of Bengal and Bihar and Orissa and issued, in accordance with rules made with the previous sanction of the [1][Central Government] for use in curing fish in those Provinces.	..	Free	..	.	
25 (3)	The following BUILDING and ENGINEERING MATERIALS namely, chalk, lime and clay	Revenue	25 per cent. *ad valorem*	.	..	..
25 (4)	CEMENT not otherwise specified	Preferential revenue.	30 per cent *ad valorem*	20 per cent *ad valorem*.	..	..
25 (5)	PORTLAND CEMENT excluding white Portland cement	Preferential revenue.	Rs 18-4 per ton	Rs. 13 12 per ton.	..	..

[1] Subs. by the A O for "G G in C "
[2] Subs. by the A. O for "Govt of Bengal".

Item No	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
25 (6)	STONE prepared as for road metalling	..	Free	..	..	..
25 (7)	MARBLE and STONE not otherwise specified.	Revenue	25 per cent. *ad valorem*	..	..	..
26	METALLIC ORES, all sorts except ochres and other pigment ores	..	Free	..	..	..
27	COAL, COKE and PATENT FUEL.	Revenue	Ten annas per ton	..	..	..
27 (1)	ASPHALT	Preferential Revenue.	25 per cent. *ad valorem*	..	15 per cent. *ad valorem*	..
27 (2)	PITCH and TAR	Revenue	25 per cent. *ad valorem*	..	..	..
27 (3)	All sorts of MINERAL OILS not otherwise specified.	Revenue	25 per cent. *ad valorem*.	..	..	..
27 (4)	KEROSENE; also any MINERAL OIL other than kerosene and motor spirit which has its flashing point below one hundred degrees of Fahrenheit's thermometer by Abel's close test	Revenue	Three annas and nine pies per Imperial gallon	..	..	..
27 (5)	MINERAL OIL, not included in Item No 27 (4) or Item No. 27 (6) which is suitable for use as an illuminant in wick lamps	Revenue	Three annas and nine pies per Imperial gallon	..	..	..
27 (6)	MOTOR SPIRIT	Revenue	Ten annas per Imperial gallon.	..	..	..
27 (7)	MINERAL OIL—					
	(a) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is ordinarily used for the batching of jute or other fibre;	Revenue	Rs 15-10 per ton	..	..	..
	(b) which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, is not suitable for use as an illuminant in wick lamps, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purposes.	Revenue	12½ per cent *ad valorem*	..	..	..

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of The United Kingdom	Preferential rate of duty if the article is the produce or manufacture of A British Colony	Duration of protective rates of duty.
27 (8)	LUBRICATING OIL, that is, oil such as is not ordinarily used for any other purpose than lubrication, excluding any mineral oil which has its flashing point below two hundred degrees of the Fahrenheit thermometer by Abel's close test	Preferential revenue	Two annas and six pies per Imperial gallon.	Six pies per Imperial gallon.	..	..

SECTION VI.

CHEMICAL AND PHARMACEUTICAL PRODUCTS, COLOURS AND VARNISHES, PERFUMERY; SOAP, CANDLES AND THE LIKE; GLUES AND GELATINES, EXPLOSIVES, FERTILISERS.

Item No.	Name of article	Nature of duty	Standard rate of duty	The United Kingdom	A British Colony	Duration of protective rates of duty.
28	CHEMICALS, DRUGS and MEDICINES, all sorts not otherwise specified	Preferential revenue	30 per cent *ad valorem*	20 per cent. *ad valorem.*	20 per cent. *ad valorem*	..
28 (1)	BLEACHING PASTE and bleaching powder		Free	..	..	..
28 (2)	COPPERAS, green (ferrous sulphate)	Revenue	2½ per cent *ad valorem*	..	..	..
28 (3)	SULPHUR	..	Free	..	..	..
28 (4)	LIQUID GOLD for glass-making	Preferential revenue	25 per cent. *ad valorem*	15 per cent. *ad valorem.*	..	..
28 (5)	HEAVY CHEMICALS, the following, namely —					
	Magnesium chloride	Protective	Re 1-5 per cwt or 25 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1939.
28 (6)	The following CHEMICALS, namely —					
	(a) Alum (ammonia alum, potash alum and soda alum)	Revenue	25 per cent *ad valorem* or Re 1-6 per cwt, whichever is higher	..	..	..
	(b) Magnesium sulphate or hydrated magnesium sulphate	Revenue	25 per cent *ad valorem* or Re. 1-4 per cwt, whichever is higher	..	..	..
28 (7)	The following CHEMICALS, namely, cadmium sulphide, cobalt oxide, selenium, uranium oxide and zinc oxide	Preferential revenue	25 per cent *ad valorem*	15 per cent. *ad valorem.*	..	..
28 (8)	The following CHEMICALS, DRUGS and MEDICINES, namely, acetic, carbolic, citric and oxalic acids, naphthalene, potassium chlorate and potassium cyanide, bicarbonate of soda, borax, sodium silicate, arsenic, calcium carbide, glycerine, lead, magnesium and zinc compounds not otherwise specified, aloes, asafœtida, cocaine, sarsaparilla and storax.	Revenue	25 per cent *ad valorem.*	..	..	..

Item No	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony	
28 (9)	SACCHARINE (except in tablets) and such other substances as the [1][Central Government] may, by notification in the [2][Official Gazette], declare to be of a like nature or use to saccharine.	Revenue .	Rs. 6-4 per lb. .	..	..	..
28 (10)	SACCHARINE TABLETS	Revenue .	18¾ per cent. *ad valorem* or Rs. 6-4 per pound of saccharine contents, whichever is higher	..	..	..
28 (11)	ALKALOIDS OF OPIUM and their derivatives	Revenue .	Rs 30 per seer of 80 tolas or 18¾ per cent. *ad valorem*, whichever is higher	..	..	..
28 (12)	ALKALOIDS extracted from CINCHONA BARK including Quinine and alkaloids derived from other sources which are chemically identical with alkaloids extracted from cinchona bark	..	Free . . .	..	..	..
28 (13)	ANTI-PLAGUE SERUM .	..	Free . . .	..	..	..
28 (14)	TOILET REQUISITES not otherwise specified	Preferential revenue.	30 per cent *ad valorem.*	20 per cent *ad valorem*	..	..
29	CINEMATOGRAPH FILMS, not exposed	Preferential revenue	25 per cent. *ad valorem.*	15 per cent *ad valorem*	..	..
29 (1)	CINEMATOGRAPH FILMS, exposed.	Revenue .	37½ per cent. *ad valorem*	..	..	..
30	PAINTS, COLOURS and PAINTERS' MATERIALS, all sorts not otherwise specified, including paints, solutions and compositions containing dangerous petroleum within the meaning of the Indian Petroleum Act, 1899 [3]	Preferential revenue.	30 per cent. *ad valorem.*	20 per cent. *ad valorem*	..	..
30 (1)	DYES derived from coal-tar, and coal-tar derivatives, used in any dyeing process	Revenue .	10 per cent *ad valorem.*	..	..	..
30 (2)	PAINTS, COLOURS and PAINTERS' MATERIALS, the following, namely —					
	(a) Red lead, genuine dry, genuine moist and reduced moist.	Preferential revenue	30 per cent. *ad valorem* or Rs 4-12 per cwt., whichever is higher	20 per cent *ad valorem*	..	..

VIII of 1899.

[1] Subs by the A. O. for "G G in C"
[2] Subs by the A. O for "Gazette of India".
[3] *See* now the Petroleum Act, 1934 (30 of 1934).

Item No.	Name of article.	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
30 (2) —*contd*	PAINTS COLOURS and PAINTERS' MATERIALS the following, namely —*contd*					
	(*b*) White lead, genuine dry	Preferential revenue	30 per cent *ad valorem* or Rs 5-12 per cwt, whichever is higher	20 per cent *ad valorem*	..	..
	(*c*) Zinc white, genuine dry.	Preferential revenue	30 per cent. *ad valorem* or Rs 6 per cwt, whichever is higher.	20 per cent *ad valorem*	..	..
	(*d*) Paints, other sorts, coloured, moist—					
	(i) in packing of 1 lb or over	Preferential revenue.	30 per cent *ad valorem* or Rs 8-8 per cwt, whichever is higher	20 per cent *ad valorem*	..	..
	(ii) in packing of ½ lb and over but less than 1 lb	Preferential revenue.	30 per cent *ad valorem* or Rs 11-4 per cwt, whichever is higher	20 per cent *ad valorem*	..	..
	(iii) in packing of ¼ lb and over but less than ½ lb	Preferential revenue	30 per cent *ad valorem* or Rs 17 per cwt, whichever is higher.	20 per cent *ad valorem*	..	..
	(iv) in packing of less than ¼ lb	Preferential revenue	30 per cent *ad valorem* or Rs 24 per cwt, whichever is higher.	20 per cent *ad valorem*	..	..
30 (3)	PAINTS, COLOURS and PAINTERS' MATERIALS, the following, namely :—					
	(*a*) Red lead, reduced dry	Revenue	25 per cent *ad valorem* or Rs 4 12 per cwt, whichever is higher	..	..	..
	(*b*) White lead, genuine moist, and reduced dry or moist	Revenue	25 per cent *ad valorem* or Rs 5 12 per cwt, whichever is higher		..	..
	(*c*) Zinc white, genuine moist	Revenue	25 per cent *ad valorem* or Rs 6 per cwt, whichever is higher	..	..	..
	(*d*) Zinc white, reduced dry or moist	Revenue	25 per cent *ad valorem* or Rs 4-4 per cwt, whichever is higher	..	..	..
30 (4)	The following PAINTS, COLOURS and PAINTERS' MATERIALS, namely, barytes, turpentine, turpentine substitute, and varnish not containing dangerous petroleum within the meaning of the Indian Petroleum Act, 1899 [1]	Revenue	25 per cent *ad valorem*	..	..	..
30 (5)	PLUMBAGO and GRAPHITE	Preferential revenue	30 per cent. *ad valorem*.	..	20 per cent *ad valorem*	..

VIII of 1899

[1] *See* now the Petroleum Act, 1934 (30 of 1934)

Item No.	Name of article.	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony	
30 (6)	PRINTERS' INK	Revenue	10 per cent. *ad valorem.*	..	..	..
30 (7)	LEAD PENCILS	Preferential revenue	30 per cent. *ad valorem* or one anna per dozen, whichever is higher.	20 per cent *ad valorem*	..	..
30 (8)	SLATE PENCILS	Revenue	25 per cent. *ad valorem*	..	..	..
31	NATURAL ESSENTIAL OILS, all sorts not otherwise specified.	Preferential revenue.	30 per cent *ad valorem*	20 per cent. *ad valorem*	..	..
31 (1)	The following NATURAL ESSENTIAL OILS, namely, citronella, cinnamon, and cinnamon leaf.	Preferential revenue	30 per cent. *ad valorem*	20 per cent *ad valorem*	20 per cent *ad valorem*	..
31 (2)	The following NATURAL ESSENTIAL OILS, namely, almond, bergamot, gajupatti, camphor, cloves, eucalyptus, lavender, lemon, ottorose and peppermint	Revenue	25 per cent *ad valorem.*	..	..	..
31 (3)	ESSENTIAL OILS, synthetic	Preferential revenue	30 per cent. *ad valorem*	20 per cent *ad valorem*	..	..
31 (4)	CAMPHOR	Revenue	50 per cent *ad valorem*	..	..	..
31 (5)	PERFUMERY not otherwise specified.	Revenue	25 per cent. *ad valorem*	..	..	..
32	SOAP not otherwise specified.	Revenue	25 per cent. *ad valorem.*	..	..	..
32 (1)	SOAP, TOILET	Preferential revenue	35 per cent. *ad valorem* or Rs 20 per cwt., whichever is higher.	25 per cent. *ad valorem*	..	..
32 (2)	SOAP, HOUSEHOLD and LAUNDRY—					
	(a) in plain bars of not less than one pound in weight.	Revenue	Rs. 4 per cwt	..	..	..
	(b) other sorts	Revenue	Rs. 6-8 per cwt.	..	..	..
32 (3)	POLISHES and compositions	Revenue	25 per cent. *ad valorem.*	..	..	..
32 (4)	CANDLES	Revenue	25 per cent. *ad valorem*	..	..	..
33	GLUE, not otherwise specified.	Preferential revenue	30 per cent. *ad valorem.*	20 per cent. *ad valorem*	..	..
33 (1)	GLUE, clarified, liquid	Revenue	10 per cent. *ad valorem.*	..	..	..
34	GUNPOWDER for cannons, rifles, guns, pistols and sporting purposes.	Revenue	50 per cent. *ad valorem.*	..	..	..

Item No	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
34 (1)	EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roburite, blasting tonite, and all other sorts, including detonators and blasting fuze	Revenue .	25 per cent. *ad valorem.*	..	..	..
34 (2)	*FIREWORKS* specially prepared as danger or distress lights for the use of ships	Revenue .	25 per cent. *ad valorem*	.	..	..
34 (3)	FIREWORKS, not otherwise specified	Revenue	50 per cent *ad valorem*	..	.	..
34 (4)	MATCHES, undipped splints and veneers—					
	(*a*) Matches—					
	(1) In boxes or booklets containing on an average not more than 40 matches.	Protective	The rate at which excise duty is for the time being leviable on such matches manufactured in British India *plus* ten annas *per gross of boxes* or booklets	..	.	..
	(2) [illegible]	[illegible]	[illegible] annas per gross of boxes or booklets	..	..	.
	(3) [illegible]	[illegible]	[illegible] gross of boxes or booklets	.		..
	(4) All other matches	Protective .	The rate at which excise duty is for the time being leviable on such matches manufactured in British India *plus* one pie for every 48 matches or fraction thereof	..	..	..
	(*b*) Undipped splints such as are ordinarily used for match-making	Protective .	Five annas and seven and a half pies per lb	..	..	..
	(*c*) [illegible]	[illegible]	Seven [illegible] and [illegible]	..	..	..

Item No.	Name of article.	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
35	MANURES, all sorts, including animal bones and the following chemical manures:—Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, carbo lime, urea, nitrate of lime, calcium cyanamide, ammonium phosphates, mineral phosphates and mineral super-phosphates	..	Free . . .	..	..	..

SECTION VII.

HIDES, SKINS, LEATHER, FUR SKINS, AND MANUFACTURES OF THESE MATERIALS

36	HIDES and SKINS not otherwise specified	Revenue .	25 per cent *ad valorem*.	..	..	..
36 (1)	HIDES and SKINS, RAW or SALTED	..	Free . . .	..	..	..
36 (2)	SKINS (other than FUR SKINS), TANNED or DRESSED, and unwrought leather	Preferential revenue	30 per cent *ad valorem*	20 per cent. *ad valorem*	..	..
37	The following LEATHER MANUFACTURES, namely, saddlery, harness, trunks and bags	Revenue .	25 per cent *ad valorem*	..	..	..
37 (1)	LEATHER CLOTH including artificial leather, and other manufactures of leather not otherwise specified	Preferential revenue	30 per cent. *ad valorem*	20 per cent *ad valorem*	..	..
38	FUR SKINS, DRESSED .	Preferential revenue.	30 per cent. *ad valorem*	20 per cent. *ad valorem*	..	..

SECTION VIII.

RUBBER AND ARTICLES MADE OF RUBBER.

39	RUBBER, raw . .	..	Free . . .	..	..	..
39 (1)	RUBBER TYRES and TUBES and other manufactures of rubber, not otherwise specified, excluding apparel and boots and shoes.	Preferential revenue.	30 per cent. *ad valorem*.	20 per cent *ad valorem*	..	..

SECTION IX.

WOOD AND CORK AND WARES OF THESE MATERIALS; GOODS MADE OF PLAITING MATERIALS.

40	WOOD and TIMBER, all sorts, not otherwise specified, including all sorts of ornamental wood.	Revenue .	25 per cent. *ad valorem*.	..	..	..

Item No	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
40 (1)	FIREWOOD .	Revenue .	2½ per cent *ad valorem*	..	..	..
40 (2)	FURNITURE and CABINETWARE, not otherwise specified, excluding mouldings	Preferential revenue.	30 per cent *ad valorem*.	20 per cent *ad valorem*	..	..
40 (3)	TEA CHESTS and parts and fittings thereof	Revenue .	25 per cent *ad valorem*	..	..	..
41	CORK MANUFACTURES not otherwise specified	Preferential revenue	30 per cent *ad valorem*	20 per cent *ad valorem*	..	..
42	FURNITURE OF WICKER WORK or bamboo	Preferential revenue	30 per cent *ad valorem*.	20 per cent *ad valorem*	..	.

SECTION X.

PAPER AND ITS APPLICATIONS

Item No	Name of article	Nature of duty.	Standard rate of duty	The United Kingdom	A British Colony	Duration of protective rates of duty.
43	WOOD PULP . .	Protective	Rs 56-4 per ton	..	.	March 31st, 1939.
44	P [illegible] board	[illegible]	[illegible] cent *ad* [illegible]	20 per cent *ad valorem*	..	..
44 (1)	PRINTING PAPER (excluding *chrome*, marble, flint, poster and stereo), all sorts which contain no mechanical wood pulp or in which the mechanical wood pulp amounts to less than 70 per cent of the fibre content	Protective .	One anna and three pies per *lb*	..	..	March 31st, 1939
44 (2)	PRINTING PAPER, all sorts not otherwise specified which contain mechanical wood pulp amounting to not less than 70 per cent of the fibre content, and strawboard, all sorts	Revenue	25 per cent. *ad valorem*	..	-	..
44 (3)	WRITING PAPER—					
	(*a*) Ruled or printed forms (including letter paper with printed headings) and account and manuscript books and the binding thereof	Protective	One anna and three pies per lb. or 18¾ per cent *ad valorem*, whichever is higher.	..	..	March 31st, 1939.
	(*b*) All other sorts .	Protective .	One anna and three pies per lb.	..	..	March 31st, 1939.
44 (4)	TRADE CATALOGUES and ADVERTISING CIRCULARS imported by packet, book, or parcel post.	..	Free . . .	..	..	..

Item No	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
44 (5)	PAPER MONEY . .	..	Free . . .	..	..	..
44 (6)	NEWSPAPERS, OLD, in bales and bags	Revenue .	25 per cent *ad valorem.*	..	..	..
45	STATIONERY including drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, *Christmas, Easter* and other cards, including cards in booklet forms; including also waste paper but excluding paper and stationery otherwise specified.	Preferential revenue.	30 per cent. *ad valorem.*	20 per cent *ad valorem*	..	..
45 (1)	BOOKS, PRINTED, including covers for printed books, maps, charts, and plans, proofs, music, manuscripts, and illustrations specially made for binding in books.	..	Free .	..	..	..
45 (2)	PRINTS, ENGRAVINGS and PICTURES (including photographs and picture post cards) on paper or cardboard	Revenue .	50 per cent *ad valorem.*	..	..	..

SECTION XI.

TEXTILE MATERIALS AND TEXTILE GOODS.

Item No	Name of article.	Nature of duty.	Standard rate of duty.	The United Kingdom.	A British Colony.	Duration of protective rates of duty.
46	SILK, RAW (excluding silk waste and noils), and silk cocoons.	Protective .	25 per cent *ad valorem plus* 14 annas per lb.	..	..	March 31st, 1939
46 (1)	SILK, WASTE and NOILS	Protective	25 per cent. *ad valorem*	..	..	March 31st, 1939.
46 (2)	WOOL, RAW, and wool-tops	..	Free . .	..	..	..
46 (3)	COTTON, RAW .	Revenue	Six pies per lb. .	..	..	..
46 (4)	TEXTILE MATERIALS, the following.—					
	Raw flax, hemp, jute and all other unmanufactured textile materials not otherwise specified	Revenue .	Raw hemp—18¾ per cent. *ad valorem*; all others—25 per cent *ad valorem.*	..	..	..
46 (5)	SISAL and ALOE FIBRE	Preferential revenue.	30 per cent. *ad valorem.*	..	20 per cent. *ad valorem*	..
47	[1][illegible]	[illegible]	[illegible] *ad* [illegible] 14 [illegible]	..	..	March 31st. 1939
47 (1)	[1][SILK SEWING THREAD]	Protective .	25 per cent. *ad valorem.*	..	..	March 31st 1939.

[1] Subs. by s. 2 of the Indian Tariff (Second Amendment) Act, 1936 (12 of 1936), for the original entry.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
47 (2)	ARTIFICIAL SILK YARN and THREAD	Revenue .	25 per cent *ad valorem* or 3 annas per lb, whichever is higher		..	..
47 (3)	WOOLLEN YARN not otherwise specified.	Preferential revenue.	35 per cent *ad valorem*	25 per cent *ad valorem*	.	..
47 (4)	WOOLLEN YARN for weaving and knitting wool	Preferential revenue	30 per cent. *ad valorem.*	20 per cent *ad valorem*	.	..
47 (5)	COTTON THREAD other than sewing or darning thread	Revenue .	25 per cent *ad valorem*		..	.
47 (6)	COTTON TWIST and YARN, and cotton sewing or darning thread—					
	(a) of counts above 50's—					
	(i) of British manufacture	Protective .	5 per cent *ad valorem*			March 31st, 1939
	(ii) not of British manufacture	Protective	6¼ per cent *ad valorem*		.	March 31st, 1939
	(b) of counts 50's and below—					
	(i) of British manufacture	Protective	5 per cent *ad valorem* or 1¼ annas per lb., whichever is higher			March 31st, 1939
	(ii) not of British manufacture	Protective	6¼ per cent *ad valorem* or 1⅞ annas per lb., whichever is higher		.	March 31st, 1939
47 (7)	TWIST and YARN of FLAX or JUTE	Revenue .	25 per cent *ad valorem*		..	.
47 (8)	YARN (excluding cotton yarn) such as is ordinarily used for the manufacture of belting for machinery	Revenue .	6¼ per cent *ad valorem*			..
48	FABRICS, not otherwise specified, containing more than 90 per cent of silk, including such fabrics embroidered with artificial silk—					
	(a) Pongee	Protective .	50 per cent. *ad valorem plus* Re. 1 per lb	..	..	March 31st, 1939
	(b) Fuji, Boseki and corded (excluding white cord)	Protective .	50 per cent. *ad valorem plus* Re 1 8 per lb.	.	..	March 31st, 1939.
	(c) Other sorts .	Protective .	50 per cent *ad valorem plus* Rs. 2 per lb.	..	..	March 31st, 1939

Item No	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
48 (1)	FABRICS, not otherwise specified, containing more than 90 per cent of artificial silk—					
	(a) of British manufacture	Protective .	30 per cent. *ad valorem* or 2¼ annas per square yard, whichever is higher.	..	..	March 31st, 1939.
	(b) not of British manufacture.	Protective .	50 per cent *ad valorem* or 4 annas per square yard, whichever is higher	..	..	March 31st, 1939.
48 (2)	WOOLLEN FABRICS, not otherwise specified, containing more than 90 per cent of wool, excluding felt and fabrics made of *shoddy or waste wool*	Preferential revenue	35 per cent *ad valorem* or Re 1-2 per lb, whichever is higher	25 per cent *ad valorem*	..	..
48 (3)	COTTON FABRICS not otherwise specified, containing more than 90 per cent. of cotton—					
	(a) Grey piecegoods (excluding bordered grey chadars, dhuties, saris and scarves)—					
	(i) of British manufacture.	Protective .	25 per cent. *ad valorem* or 4⅜ annas per lb., whichever is higher.	..	..	March 31st, 1939.
	(ii) not of British manufacture	Protective .	50 per cent. *ad valorem* or 5¼ annas per lb., whichever is higher.	..	..	March 31st, 1939.
	(b) Cotton piecegoods and fabrics not otherwise specified—					
	(i) of British manufacture.	Protective .	25 per cent. *ad valorem.*	..	..	March 31st, 1939.
	(ii) not of British manufacture.	Protective .	50 per cent. *ad valorem.*	..	..	March 31st, 1939.
48 (4)	FABRICS, not otherwise specified, containing *more than 10 per cent.* and not more than 90 per cent silk—					
	(a) containing more than 50 per cent. of silk or artificial silk or of both.	Protective .	50 per cent *ad valorem plus* Rs 2 per lb.	..	..	March 31st, 1939.

Item No	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
48 (4)—*contd*	FABRICS, not otherwise specified, containing more than 10 per cent. and not more than 90 per cent silk—*contd*.					
	(b) containing not more than 50 per cent of silk or artificial silk or of both—					
	(i) Containing more than 10 per cent. artificial silk	Protective .	50 per cent *ad valorem* or Re 1-8 per lb, whichever is higher	..	..	March 31st, 1939
	(ii) containing no artificial silk or not more than 10 per cent artificial silk	Protective .	50 per cent *ad valorem*	..	..	March 31st, 1939
48 (5)	FABRICS, not otherwise specified, containing not more than 10 per cent silk but more than 10 per cent and not more than 90 per cent artificial silk—					
	(a) containing 50 per cent. or more cotton—					
	(i) of British manufacture	Protective .	30 per cent *ad valorem* or 2 annas per square yard, whichever is higher	..	..	March 31st, 1939
	(ii) not of British manufacture	Protective .	50 per cent *ad valorem* or 3½ annas per square yard, whichever is higher	..	..	March 31st, 1939
	(b) containing no cotton or containing less than 50 per cent. cotton—					
	(i) of British manufacture	Protective .	30 per cent *ad valorem* or 2¼ annas per square yard, whichever is higher	..	..	March 31st, 1939
	(ii) not of British manufacture	Protective .	50 per cent *ad valorem* or 4 annas per square yard, whichever is higher	..	..	March 31st, 1939
48 (6)	FABRICS, not otherwise specified, containing not more than 10 per cent. silk or 10 per cent artificial silk, but containing more than 10 per cent but not more than 90 per cent. wool.	Preferential revenue	35 per cent. *ad valorem*	25 per cent. *ad valorem*.	..	..

Item No	Name of article.	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
48 (7)	FABRICS, not otherwise specified, containing not more than 10 per cent silk or 10 per cent. artificial silk or 10 per cent wool, but containing more than 50 per cent. cotton and not more than 90 per cent cotton—					
	(*a*) of British manufacture	Protective .	25 per cent. *ad valorem*	..	..	March 31st, 1939
	(*b*) not of British manufacture	Protective .	50 per cent *ad valorem.*	..	..	March 31st, 1939.
48 (8)	FABRICS, not otherwise specified, containing not more than 10 per cent silk or 10 per cent artificial silk or 10 per cent. wool or 50 per cent. cotton.	Revenue .	25 per cent *ad valorem*	..	..	..
48 (9)	The following COTTON FABRICS, namely, Sateens including Italians of Sateen weave, velvets and velveteens and embroidered all-overs—					
	(*a*) of British manufacture.	Protective .	25 per cent *ad valorem*	..	..	March 31st, 1939
	(*b*) not of British manufacture	Protective .	35 per cent. *ad valorem*	..	..	March 31st, 1939
48 (10)	FABRICS containing gold or silver thread	Protective .	50 per cent. *ad valorem.*	..	..	March 31st, 1939
49	TEXTILE MANUFACTURES, the following articles when made wholly or mainly of any of the fabrics specified in Item No 48, 48 (1), 48 (3), 48 (4), 48 (5), 48 (7), 48 (9) or 48 (10) :— Bed sheets Bed spreads Bolster cases Counterpanes. Clothes, table Cloths, tray. Covers, bed. Covers, table Dusters Glass-cloths Handkerchiefs. Napkins. Pillow slips Scarves. Shirts Shawls Sacks (cotton) Towels Umbrella coverings.	Protective .	The *ad valorem* rates of duty applicable to the fabric of which the article is wholly or mainly made.	..	..	March 31st, 1939.

Item No	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
[1]40 (1)	FENTS being *bonâ fide* remnants of piece-goods or other fabrics—					
	(*a*) of materials liable to duty under Item 48 (3), not exceeding 4 yards in length	Preferential revenue	35 per cent *ad valorem*	25 per cent *ad valorem*	..	..
	(*b*) of materials liable to duty under Item 48, 48 (1), 48 (4) or 48 (5), not exceeding 2½ yards in length	Preferential revenue	35 per cent *ad valorem*	25 per cent *ad valorem*	..	..
	(*c*) of other materials, not exceeding 4 yards in length	Preferential revenue	35 per cent *ad valorem*	25 per cent *ad valorem*	..	..
49 (2)	Ribbons	Preferential revenue	50 per cent *ad valorem*	40 per cent *ad valorem*	..	..
49 (3)	BLANKETS and RUGS (other than floor rugs), excluding blankets and rugs made wholly or mainly from artificial silk	Revenue .	25 per cent *ad valorem*	..	..	..
49 (4)	WOOLLEN CARPETS, FLOOR RUGS, SHAWLS and other manufactures of wool, not otherwise specified, including felt.	Preferential revenue	35 per cent *ad valorem*	25 per cent *ad valorem*	..	..
49 (5)	COTTON BRAIDS or CORDS, the following, namely —					
	Ghoonsis and Muktakesis	Protective .	6½ annas per lb	..	..	March 31st, 1939
50	JUTE MANUFACTURES not otherwise specified	Revenue .	25 per cent. *ad valorem*	..	..	..
50 (1)	Second hand or used GUNNY BAGS or cloth made of jute	..	Free . .	..	..	..
50 (2)	HEMP MANUFACTURES .	Revenue .	25 per cent *ad valorem*.	..	..	..
50 (3)	COTTON, HAIR and CANVAS PLY BELTING for machinery	Revenue .	6¼ per cent *ad valorem*	..	..	..
50 (4)	ROPES, COTTON .		Free . . .	..	..	..
50 (5)	OIL CLOTH and FLOOR CLOTH	Preferential revenue.	30 per cent *ad valorem*	20 per cent. *ad valorem*	..	..
50 (6)	CORDAGE, ROPE and TWINE of vegetable fibre other than jute and cotton not otherwise specified	Preferential revenue	30 per cent *ad valorem*	20 per cent. *ad valorem*.	..	..
50 (7)	MATS and MATTINGS, not otherwise specified	Revenue .	25 per cent. *ad valorem*.	..	..	..

[1] Subs. by s. 2 of the Indian Tariff (Second Amendment) Act, 1936 (12 of 1936), for the original item.

Item No	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
50 (8)	COIR FIBRE, COIR YARN and COIR MATS and matting.	Preferential revenue.	30 per cent. *ad valorem.*	..	20 per cent. *ad valorem.*	..
51	SOCKS and STOCKINGS made wholly or mainly from silk or artificial silk.	Preferential revenue.	50 per cent. *ad valorem.*	40 per cent. *ad valorem.*	..	..
51 (1)	WOOLLEN HOSIERY and woollen knitted apparel, that is to say, all hosiery and knitted apparel containing not less than 15 per cent. of wool by weight	Preferential revenue.	35 per cent *ad valorem* or Re 1-2 per lb, whichever is higher.	25 per cent *ad valorem.*	..	..
[1][51 (2)	COTTON KNITTED APPAREL, including apparel made of cotton interlocking material, cotton undervests, knitted or woven, and cotton socks and stockings—					
	(a) of a weight not exceeding 4 lbs per dozen.	Protective .	25 per cent. *ad valorem* or 12 annas per lb, whichever is higher.	..	..	March 31st, 1939.
	(b) of a weight exceeding 4 lbs per dozen.	Protective .	25 per cent. *ad valorem* or 10 annas per lb, whichever is higher	..	..	March 31st, 1939]
51 (3)	COTTON KNITTED FABRIC	Protective	50 per cent *ad valorem* or 12 annas per lb, whichever is higher.	..	..	March 31st, 1939.
52	APPAREL, HOSIERY, HABERDASHERY, MILLINERY and DRAPERY, not otherwise specified	Preferential revenue.	35 per cent. *ad valorem.*	25 per cent *ad valorem.*	25 per cent *ad valorem*	..
52 (1)	SILK or ARTIFICIAL SILK GOODS used or required for medical purposes, namely:—silk or artificial silk ligatures; *elastic silk or* artificial silk hosiery, elbow pieces, thigh pieces, knee caps, leggings, socks, anklets stockings, suspensory bandages, silk or artificial silk abdominal belts, silk or artificial silk web catheter tubes, and oiled silk or artificial silk.	Revenue .	25 per cent *ad valorem.*	..	..	..
52 (2)	UNIFORMS and Accoutrements appertaining thereto, imported by a public servant for his personal use	..	Free . . .	..	..	..
52 (3)	INSIGNIA and BADGES of official British and Foreign Orders.	..	Free . . .	..	..	..

[1] Subs. by s. 2 of the Indian Tariff (Second Amendment) Act, 1936 (12 of 1936), for the original item.

Item No	Name of article.	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony	
53	TEXTILE MANUFACTURES, not otherwise specified	Preferential revenue	35 per cent. *ad valorem*.	25 per cent *ad valorem*.	..	..
53 (1)	RAGS and other paper making materials excluding wood pulp.	..	Free . . .	..	..	..

SECTION XII.

FOOTWEAR, HATS, UMBRELLAS AND PARASOLS, ARTICLES OF FASHION.

54	BOOTS and SHOES not otherwise specified	Revenue .	25 per cent *ad valorem* or 6 annas per pair, whichever is higher	..	..	..
54 (1)	BOOTS and SHOES composed mainly of leather.	Preferential revenue	30 per cent *ad valorem* or 6 annas per pair, whichever is higher	20 per cent *ad valorem* or 5 annas per pair, whichever is higher	..	..
54 (2)	UPPERS FOR BOOTS AND SHOES unless entirely made of leather.	Revenue .	25 per cent. *ad valorem* or 3 annas per pair, whichever is higher	.	..	..
55	HATS, CAPS, BONNETS and HATTERS' WARE, not otherwise specified	Preferential revenue	35 per cent *ad valorem*	25 per cent *ad valorem*.	25 per cent. *ad valorem*.	..
56	PARASOLS and SUNSHADES and fittings for umbrellas, parasols and sunshades.	Preferential revenue	30 per cent. *ad valorem*.	20 per cent *ad valorem*	..	..
56 (1)	UMBRELLAS	Preferential revenue	30 per cent *ad valorem* or eight annas each, whichever is higher	20 per cent *ad valorem*	..	..
57			.	.	.	

SECTION XIII.

WARES OF STONE AND OF OTHER MINERAL MATERIALS, CERAMIC PRODUCTS; GLASS AND GLASSWARE.

58	Articles made of STONE or MARBLE	Revenue .	25 per cent. *ad valorem*	.	..	..
58 (1)	ASBESTOS MANUFACTURES, not otherwise specified	Preferential revenue	30 per cent. *ad valorem*	20 per cent. *ad valorem*.	..	..
58 (2)	PACKING—Engine and Boiler—all sorts not otherwise specified	Preferential revenue	30 per cent. *ad valorem*.	20 per cent. *ad valorem*.	..	..
59	B[illegible]	[illegible]	[illegible] cent. *ad*	20 per cent *ad valorem*.	..	..

Item No.	Name of article.	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
59 (1)	BUILDING and ENGINEERING BRICKS	Revenue	25 per cent *ad valorem*.	..	..	..
59 (2)	EARTHENWARE, CHINA and PORCELAIN, all sorts not otherwise specified	Preferential revenue.	30 per cent *ad valorem*.	20 per cent *ad valorem*	..	..
59 (3)	EARTHENWARE PIPES and SANITARY WARE	Revenue	25 per cent *ad valorem*	.	..	..
59 (4)	TILES OF EARTHENWARE and PORCELAIN.	Preferential revenue.	30 per cent *ad valorem* or two annas per square foot, whichever is higher.	20 per cent *ad valorem*.	..	..
59 (5)	DOMESTIC EARTHENWARE, CHINA and PORCELAIN, the following, namely —					
	(a) Tea cups and coffee cups—					
	(i) having a capacity of more than 7½ ozs	Preferential revenue.	30 per cent. *ad valorem* or ten annas per dozen, whichever is higher.	20 per cent *ad valorem*	..	..
	(ii) having a capacity of not more than 7½ ozs	Preferential revenue	30 per cent. *ad valorem* or four annas per dozen, whichever is higher	20 per cent *ad valorem*	..	..
	(b) Saucers—					
	(i) for use with tea cups or coffee cups having a capacity of more than 7½ ozs.	Preferential revenue.	30 per cent. *ad valorem* or five annas per dozen, whichever is higher	20 per cent *ad valorem*	..	..
	(ii) for use with tea cups or coffee cups having a capacity of not more than 7½ ozs	Preferential revenue	30 per cent. *ad valorem* or two annas per dozen, whichever is higher.	20 per cent *ad valorem*.	..	..
	(c) Tea-pots—					
	(i) having a capacity of more than 20 ozs	Preferential revenue	30 per cent *ad valorem* or Rs 3 per dozen, whichever is higher.	20 per cent. *ad valorem*	..	..
	(ii) having a capacity of more than 10 ozs. and not more than 20 ozs.	Preferential revenue	30 per cent. *ad valorem* or Re. 1-8 per dozen, whichever is higher.	20 per cent. *ad valorem*.	..	..
	(iii) having a capacity of not more than 10 ozs.	Preferential revenue	30 per cent. *ad valorem* or twelve annas per dozen, whichever is higher	20 per cent *ad valorem*.	..	..
	(d) Sugar-bowls	Preferential revenue	30 per cent *ad valorem* or Re 1-8 per dozen, whichever is higher.	20 per cent. *ad valorem*	..	..
	(e) Jugs having a capacity of over 10 ozs.	Preferential revenue	30 per cent. *ad valorem* or twelve annas per dozen, whichever is higher	20 per cent *ad valorem*.	..	..

Item No	Name of article.	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
59 (5)—*contd*	DOMESTIC EARTHENWARE, CHINA and PORCELAIN, the following, namely—*contd* (*f*) Plates over 5½ inches in diameter—					
	(i) over 8½ inches in diameter	Preferential revenue	30 per cent *ad valorem* or Re 1 per dozen, whichever is higher	20 per cent *ad valorem*	..	..
	(ii) not over 8½ inches in diameter.	Preferential revenue	30 per cent *ad valorem* or ten annas per dozen, whichever is higher	20 per cent *ad valorem*	..	..
59 (6)	COVERED CRUCIBLES for glass-making	Preferential revenue	25 per cent *ad valorem*	15 per cent *ad valorem*	..	..
60	GLASS and GLASSWARE not otherwise specified, and lacquered ware.	Revenue	25 per cent *ad valorem*	..	..	..
60 (1)	GLASS GLOBES and CHIMNEYS for lamps and lanterns—					
	(*a*) Globes for hurricane lanterns	Revenue	25 per cent *ad valorem* or four annas and six pies per dozen, whichever is higher	..	..	..
	(*b*) Other globes and chimneys having an external base diameter of over one inch.	Revenue	25 per cent *ad valorem* or three annas per dozen, whichever is higher	..	..	..
60 (2)	ELECTRIC LIGHTING BULBS	Preferential revenue	50 per cent *ad valorem*	40 per cent *ad valorem*	..	..
60 (3)	GLASS BANGLES, GLASS BEADS and false pearls	Revenue	50 per cent *ad valorem*		..	..

SECTION XIV.

REAL PEARLS, PRECIOUS STONES, PRECIOUS METALS AND WARES OF THOSE MATERIALS, COIN (SPECIE)

61	PRECIOUS STONES, unset and imported uncut, and *Pearls*, unset	..	Free	..	..	..
61 (1)	PRECIOUS STONES, unset and imported cut	Revenue	25 per cent *ad valorem*	..	..	..
61 (2)	SILVER BULLION and SILVER SHEETS and PLATES which have undergone no process of manufacture subsequent to rolling	Revenue	[1][Three annas per ounce.]	..	..	..
61 (3)	GOLD BULLION and GOLD SHEETS and PLATES which have undergone no process of manufacture subsequent to rolling.	..	Free	..	..	..

[1] Subs. by s. 4 of the Indian Finance Act, 1937, for the words "two annas per ounce" which had been subs. by s. 3 of the Indian Finance Act, 1935, for the words "five annas per ounce".

Item No	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
63 (5)	IRON RICE BOWLS	Preferential revenue	20 per cent. *ad valorem*	10 per cent. *ad valorem*	..	..
63 (6)	CAST IRON PIPES and TUBES, also cast iron fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like—					
	(i) of British manufacture	Protective	10 per cent *ad valorem*	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective	Rs 57-8-0 per ton	.	..	March 31st 1941.
63 (7)	CAST IRON PLATES	Preferential revenue	20 per cent *ad valorem*	10 per cent *ad valorem.*	..	..
63 (8)	STEEL INGOTS. IRON or STEEL blooms, billets and slabs, provided that no piece less than 1½ inches square or thick shall be included in this item.	Preferential revenue	The excise duty leviable for the time being on steel ingots produced in British India, or 20 per cent *ad valorem*, whichever is higher	The excise duty leviable for the time being on steel ingots produced in British India; or 10 per cent. *ad valorem*, whichever is higher	..	..
63 (9)	IRON or STEEL STRUCTURES fabricated partially or wholly, not otherwise specified, if made mainly or wholly of iron or steel bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, well curbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware or any of the articles specified in Item No. 72, 72 (3), 74 (1), 75 (3), 75 (4) or 76 (1)—					
	(a) of British manufacture.	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 40 per ton	..	..	March 31st, 1941.
	(b) not of British manufacture.	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 40 per ton	..	..	March 31st, 1941.

Item No	Name of article.	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
63 (10)	STEEL, tinplates and tinned sheets, including tin taggers, and cuttings of such plates, sheets or taggers—					
	(i) of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 38 per ton	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 59 per ton		..	March 31st, 1941.
63 (11)	IRON OR STEEL ANCHORS and CABLES	Preferential revenue	20 per cent *ad valorem*	10 per cent *ad valorem*	..	..
63 (12)	A IRON OR STEEL BOLTS and NUTS, including hook-bolts and nuts for roofing but excluding fish bolts and nuts—					
	(i) of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem*, whichever is higher		..	March 31st, 1941
	(ii) not of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 1-9-0 per cwt		..	March 31st, 1941.
	B IRON OR STEEL FISH BOLTS and NUTS—					
	(i) of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem*, whichever is higher.	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 4-5-0 per cwt	..	..	March 31st 1941.
63 (13)	IRON OR STEEL EXPANDED METAL	Preferential revenue	20 per cent. *ad valorem*.	10 per cent *ad valorem*.	..	..

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
63 (5)	IRON RICE BOWLS	Preferential revenue	20 per cent. *ad valorem*	10 per cent *ad valorem*	..	..
63 (6)	CAST IRON PIPES and TUBES; also cast iron fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like—					
	(i) of British manufacture	Protective .	10 per cent *ad valorem*	..	..	March 31st, 1941.
	(ii) not of British manufacture.	Protective .	Rs. 57-8-0 per ton	..	..	March 31st, 1941.
63 (7)	CAST IRON PLATES	Preferential revenue	20 per cent. *ad valorem*	10 per cent *ad valorem*	..	..
63 (8)	STEEL INGOTS . IRON or STEEL blooms, billets and slabs, provided that no piece less than 1½ inches square or thick shall be included in this item.	Preferential revenue	The excise duty leviable for the time being on steel ingots produced in British India, or 20 per cent *ad valorem*, whichever is higher	The excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent. *ad valorem*, whichever is higher.	..	..
63 (9)	IRON or STEEL STRUCTURES fabricated partially or wholly, not otherwise specified, if made mainly or wholly of iron or steel bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, well curbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware or any of the articles specified in Item No. 72, 72 (3), 74 (1), 75 (3), 75 (4) or 76 (1)—					
	(*a*) of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 40 per ton.	..	..	March 31st, 1941.
	(*b*) not of British manufacture.	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 40 per ton	..	..	March 31st, 1941.

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
63 (10)	STEEL, tinplates and tinned sheets, including tin taggers, and cuttings of such plates, sheets or taggers—					
	(i) of British manufacture	Protective	1½ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 38 per ton	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective .	1½ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 59 per ton	..	.	March 31st, 1941.
63 (11)	IRON or STEEL ANCHORS and CABLES	Preferential revenue	20 per cent *ad valorem*	10 per cent *ad valorem*	..	..
63 (12)	A IRON or STEEL BOLTS and NUTS, including hook-bolts and nuts for roofing but excluding fish bolts and nuts—					
	(i) of British manufacture	Protective	1½ times the excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem*, whichever is higher			March 31st, 1941
	(ii) not of British manufacture	Protective	1½ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 1-9-0 per cwt	.	.	March 31st, 1941
	B IRON or STEEL FISH BOLTS and NUTS—					
	(i) of British manufacture	Protective	1½ times the excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941
	(ii) not of British manufacture	Protective .	1½ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 4-5-0 per cwt	..	..	March 31st 1941.
63 (13)	IRON or STEEL EXPANDED METAL	Preferential revenue	20 per cent. *ad valorem*	10 per cent *ad valorem*	..	..

Item No	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
63 (5)	IRON RICE BOWLS .	Preferential revenue	20 per cent *ad valorem.*	10 per cent. *ad valorem*	..	..
63 (6)	CAST IRON PIPES and TUBES also cast iron fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like—					
	(i) of British manufacture	Protective .	10 *per cent ad valorem*	..	..	March 31st, 1941
	(ii) not of British manufacture	Protective	Rs 57-8-0 per ton	..	..	March 31st, 1941.
63 (7)	CAST IRON PLATES .	Preferential revenue	20 per cent *ad valorem*	10 per cent. *ad valorem.*	..	..
63 (8)	STEEL INGOTS . . IRON or STEEL blooms, billets and slabs, provided that no piece less than 1½ inches square or thick shall be included in this item	Preferential revenue.	The excise duty leviable for the time being on steel ingots produced in British India, or 20 per cent *ad valorem*, whichever is higher	The excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem*, whichever is higher.	..	..
63 (9)	IRON or STEEL STRUCTURES fabricated partially or wholly, not otherwise specified, if made mainly or wholly of iron or steel bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, well curbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware or any of the articles specified in Item No. 72, 72 (3), 74 (1), 75 (3), 75 (4) or 76 (1)—					
	(a) of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 40 per ton.	..	..	March 31st, 1941.
	(b) not of British manufacture.	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 40 per ton	..	..	March 31st, 1941.

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of The United Kingdom	Preferential rate of duty if the article is the produce or manufacture of A British Colony	Duration of protective rates of duty.
63 (10)	STEEL, tinplates and tinned sheets, including tin taggers, and cuttings of such plates, sheets or taggers—					
	(i) of British manufacture.	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 38 per ton	..	..	March 31st, 1941
	(ii) not of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 59 per ton	.	..	March 31st, 1941
63 (11)	IRON OF STEEL ANCHORS and CABLES	Preferential revenue	20 per cent *ad valorem*	10 per cent *ad valorem*	..	..
63 (12)	A IRON OR STEEL BOLTS and NUTS, including hook-bolts and nuts for roofing but excluding fish bolts and nuts—					
	(i) of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem* whichever is higher			March 31st, 1941
	(ii) not of British manufacture.	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 1-9-0 per cwt		.	March 31st, 1941
	B IRON OR STEEL FISH BOLTS and NUTS—					
	(i) of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem*, whichever is higher	.	..	March 31st, 1941.
	(ii) not of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 4-5-0 per cwt	..	..	March 31st 1941.
63 (13)	IRON OR STEEL EXPANDED METAL	Preferential revenue	20 per cent. *ad valorem.*	10 per cent *ad valorem*	..	..

Item No	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
63 (14)	IRON OR STEEL HOOPS and STRIPS	Preferential revenue	20 per cent *ad valorem*.	10 per cent. *ad valorem*	..	..
63 (15)	IRON OR STEEL RIVETS—					
	(i) of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India; or 10 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 1-14-0 per cwt	..	..	March 31st, 1941.
63 (16)	IRON OR STEEL NAILS and WASHERS, all sorts not otherwise specified	Preferential revenue	20 per cent *ad valorem*	10 per cent *ad valorem*	..	..
63 (17)	IRON OR STEEL PIPES and TUBES and fittings therefor, if riveted or otherwise built up of plates or sheets—					
	(i) of British manufacture.	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 12 per ton, or 10 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 35 per ton.	..	..	March 31st, 1941.
63 (18)	IRON OR STEEL PIPES and TUBES; also fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks, and the like, excluding pipes, tubes and fittings therefor otherwise specified.	Preferential revenue	20 per cent. *ad valorem*.	10 per cent. *ad valorem*.	..	..

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
63 (19)	IRON or STEEL plates excluding cast iron plates—					
	(a) not fabricated—					
	(1) of British manufacture—					
	nc			..	..	March 31st, 1941.
			ad valorem, whichever is higher			
	coated with other metals	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem*, whichever is higher		..	March 31st, 1941
	(ii) not of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 25 per ton	.	..	March 31st, 1941.
	(b) fabricated—					
					..	March 31st, 1941.
	(ii) not of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 40 per ton	..	..	March 31st, 1941
63 (20)	IRON or STEEL SHEETS—					
	(a) not fabricated—					
	(1) not galvanized—					
	(i) of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 11 per ton; or 10 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.

Item No.	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of: The United Kingdom	Preferential rate of duty if the article is the produce or manufacture of: A British Colony.	Duration of protective rates of duty.
63 (20) —*contd*	IRON OR STEEL SHEETS—*contd*					
	(a) not fabricated—*contd*					
	(1) not galvanized—*contd*					
	(ii) not of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 32 per ton	..	..	March 31st, 1941.
	(2) galvanized—					
	(i) of British manufacture	Protective	1⅜ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 10 per ton, or 10 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.
	[illegible]	[illegible]	[illegible] ton	..	..	March 31st, 1941.
	(b) fabricated—					
	(1) not galvanized—					
	(i) [illegible]	[illegible]	[illegible] cent. *ad valorem*, whichever is higher	..	..	March 31st, 1941.
	[illegible]	[illegible]	[illegible] ton.	..	..	March 31st, 1941.
	(2) galvanized—					
	(i) [illegible]	[illegible]	[illegible] cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
63 (20)—*concld*	IRON or STEEL SHEETS—*concld*					
	(b) fabricated—*contd*					
	(2) galvanized—*contd*					
	(ii) not of British manufacture	Protective	1½ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 44 per ton			March 31st, 1941
63 (21)	IRON OR STEEL RAILWAY TRACK MATERIAL—					
	A Rails (including tramway rails the heads of which are not grooved)—					
	(a) 30 lbs per yard and over, and fish-plates therefor—					
	(i) [illegible]	[illegible]	[illegible] *ad valorem* whichever is higher	..	.	March 31st, 1941
	[illegible]	[illegible]	[illegible] *ad valorem*, whichever is higher		..	March 31st, 1941
	(b) under 30 lbs per yard and fish plates therefor—					
	(i) [illegible]	[illegible]	[illegible] *plus* Rs 10 per ton, or 10 per cent *ad valorem* whichever is higher	.	..	March 31st, 1941
	[illegible]	[illegible]	[illegible] ton.	.	..	March 31st, 1941.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
63 (21) —*contd.*	IRON OR STEEL RAILWAY TRACK MATERIAL—*contd*					
	B. Switches and crossings including stretcher bars and other component parts, and switches and crossings including stretcher bars and other component parts for tramway rails the heads of which are not grooved—					
	(*a*) for rails 30 lbs per yard and over—					
	(i) of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India, or 10 per cent *ad valorem*, whichever is higher.	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India, or 20 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.
	(*b*) for rails under 30 lbs per yard—					
	(i) of British manufacture.	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 11 per ton; or 10 per cent *ad valorem*, whichever is higher.	..	..	March 31st, 1941.
	[illegible]	[illegible]	[illegible] ton.	..	..	March 31st, 1941.
	C. Sleepers, and sleeper bars, other than cast iron—					
	(i) of British manufacture.	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India; or 10 per cent. *ad valorem*, whichever is higher.	..	..	March 31st, 1941.

Item No	Name of article.	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
63 (21) —*contd*	IRON OR STEEL RAILWAY TRACK MATERIAL—*contd*					
	C Sleepers, and sleeper bars, other than cast iron —*contd*					
	(ii) not of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India, or 20 per cent *ad valorem*, whichever is higher		..	March 31st, 1941
	D Spikes (other than dogspikes) and tie-bars—					
	(i) of British manufacture	Protective	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 10 per ton, or 10 per cent *ad valorem*, whichever is higher		..	March 31st, 1941
	[illegible]	[illegible]	[illegible] ton	..	.	March 31st, 1941
	E. Dogspikes—					
	(i) [illegible]	[illegible]	[illegible] *plus* 7 annas per cwt ; or 10 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 2-15-0 per cwt.	..	..	March 31st, 1941.

Item No	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
63 (21)—*concld*	IRON OR STEEL RAILWAY TRACK MATERIAL—*concld*					
	F Gibs, cotters, keys (including tapered keybars), distance pieces and other fastenings for use with iron or steel sleepers—					
	(i) of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* 7 annas per cwt , or 10 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 2-15-0 per cwt	..	..	March 31st, 1941
63 (22)	IRON OR STEEL RAILWAY TRACK MATERIALS not otherwise specified, including bearing plates, cast iron sleepers and lever boxes.	Preferential revenue	20 per cent *ad valorem*.	10 per cent *ad valorem*.	..	..
63 (23)	IRON OR STEEL TRAMWAY TRACK MATERIALS not otherwise specified, including rails, fishplates, tie-bars, switches, crossings and the like materials of shapes and sizes specially adapted for tramway tracks	Preferential revenue.	20 per cent. *ad valorem*.	10 per cent *ad valorem*	..	..
63 (24)	IRON OR STEEL BARBED OR STRANDED WIRE and wire rope	Preferential revenue	20 per cent. *ad valorem*	10 per cent. *ad valorem*.	..	..
63 (25)	IRON OR STEEL WIRE, other than barbed or stranded wire, wire rope or wire netting; and iron or steel wire nails—					
	(i) of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs. 25 per ton.	..	..	March 31st, 1941.
	(ii) not of British manufacture	Protective .	1¼ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 60 per ton.	..	..	March 31st, 1941.

Item No	Name of article.	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
63 (26)	IRON or STEEL (other than bar or rod) specially designed for the reinforcement of concrete.	Preferential revenue.	20 per cent *ad valorem*.	10 per cent *ad valorem*.	..	..
63 (27)	IRON or STEEL, the original material (but *not including machinery*) of any ship or other vessel intended for inland or harbour navigation which has been assembled abroad, taken to pieces and shipped for reassembly in India—					
	(i) of British manufacture	Protective .	1½ times the excise duty leviable for the time being on steel ingots produced in British India; or 10 per cent *ad valorem*, whichever is higher	.	.	March 31st, 1941
	(ii) not of British manufacture	Protective .	1½ times the excise duty leviable for the time being on steel ingots produced in British India *plus* Rs 27-8-0 per ton; or 20 per cent *ad valorem*, whichever is higher	..	..	March 31st, 1941.
	Provided that articles dutiable under this item shall not be deemed to be dutiable under any other item.					
63 (28)	All sorts of IRON and STEEL and manufactures thereof not otherwise specified	Preferential revenue	30 per cent. *ad valorem*	20 per cent *ad valorem*	..	..
63 (29)	ENAMELLED IRONWARE, the following, namely.—					
	(a) Signboards .	Preferential revenue.	30 per cent *ad valorem* or four and a half annas per square foot, whichever is higher.	20 per cent. *ad valorem*.	..	..

Item No	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of The United Kingdom.	Preferential rate of duty if the article is the produce or manufacture of A British Colony	Duration of protective rates of duty
63 (29)—*contd*	ENAMELLED IRONWARE, the following, namely—*contd*					
	(*b*) Domestic hollow-ware, the following, namely, basins, bowls, dishes, plates and thalas, including rice-cups, rice-bowls and rice-plates—					
	(i) having no diameter exceeding 19 centimetres	Preferential revenue.	30 per cent. *ad valorem* or per dozen four annas *plus* one anna for every two centimetres or part thereof by which any diameter exceeds 11 centimetres, whichever is higher	20 per cent. *ad valorem*	..	..
	(ii) having any diameter exceeding 19 centimetres	Preferential revenue.	30 per cent. *ad valorem* or per dozen eight annas *plus* two annas for every two centimetres or part thereof by which any diameter exceeds 19 centimetres, whichever is higher	20 per cent. *ad valorem*.	..	..
64	COPPER WROUGHT, and manufactures of copper, all sorts not otherwise specified.	Preferential revenue	30 per cent. *ad valorem*	20 per cent *ad valorem*	..	..
64 (1)	COPPER, SCRAP . .	Revenue .	25 per cent. *ad valorem*.	..	..	..
65	GERMAN SILVER including nickel silver.	Preferential revenue.	30 per cent. *ad valorem*	20 per cent. *ad valorem*	..	..
66	ALUMINIUM—circles, sheets and other manufactures not otherwise specified.	Preferential revenue	30 per cent *ad valorem*	20 per cent. *ad valorem*	..	..
66 (1)	UNWROUGHT INGOTS, blocks and bars of ALUMINIUM.	Revenue .	25 per cent *ad valorem*.	..	..	..
67	LEAD, WROUGHT—the following articles, namely, pipes and tubes and sheets other than sheets for tea chests	Preferential revenue.	30 per cent, *ad valorem*.	20 per cent *ad valorem*	..	..
67 (1)	LEAD SHEETS for tea chests.	Revenue .	25 per cent. *ad valorem*	..	..	..
68	ZINC or SPELTER, wrought or manufactured, not otherwise specified	Preferential revenue.	30 per cent. *ad valorem*.	20 per cent *ad valorem*	..	..

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony	
68 (1)	ZINC, UNWROUGHT, including cakes, ingots, tiles (other than boiler tiles), hard or soft slabs and plates, dust, dross and ashes, and broken zinc	..	Free . .	.	.	
69	TIN, BLOCK .	Revenue .	Rs 312 8 per ton	.	.	.
70	BRASS, BRONZE and similar alloys, wrought, and manufactures thereof not otherwise specified	Preferential revenue	30 per cent *ad valorem*	20 per cent *ad valorem*		
70 (1)	All sorts of metals other than iron and steel, and manufactures thereof, not otherwise specified	Revenue .	25 per cent *ad valorem*			.
71	H [illegible] ments	[illegible]	[illegible] cent *ad* [illegible]	20 per cent *ad valorem*	.	.
71 (1)	The following HARDWARE IRONMONGERY and TOOLS, namely, agricultural implements not otherwise specified, buckets of tinned or galvanized iron, and pruning-knives	Revenue .	25 per cent *ad valorem*			.
71 (2)	CUTLERY, all sorts not otherwise specified	Preferential revenue	30 per cent *ad valorem*	20 per cent *ad valorem*	..	
71 (3)	METAL FURNITURE and CABINETWARE	Preferential revenue	30 per cent *ad valorem*	20 per cent *ad valorem*		..
71 (4)	PRINTING TYPE .	Revenue .	One anna and three pies per lb		..	..
71 (5)	The following PRINTING MATERIALS, namely, leads, brass rules, wooden and metal quoins, shooting sticks and galleys and metal furniture	Revenue	2½ per cent *ad valorem*	..	.	..
71 (6)	RACKS for the withering of tea leaf	Revenue .	2½ per cent *ad valorem*	..	..	..

Item No.	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	

SECTION XVI.

MACHINERY AND APPARATUS; ELECTRICAL MATERIAL.

72	MACHINERY, namely, such of the following articles as are not otherwise specified;— (a) prime-movers, boilers, locomotive engines and tenders for the same, portable engines (including power-driven road rollers, fire engines and tractors), and other machines in which the prime-mover is not separable from the operative parts, (b) machines and sets of machines to be worked by electric, steam, water, fire or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; (c) apparatus and appliances, not to be operated by manual or animal labour, which are designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose; (d) controlgear, self-acting or otherwise, and transmission-gear designed for use with any machinery above specified, including belting of all materials (other than cotton, hair and canvas ply) and driving chains, but excluding driving ropes not made of cotton,	Revenue .	10 per cent. *ad valorem.*	..	..	..

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
72—*contd*	MACHINERY, namely, such of the following articles as are not otherwise specified—*contd*					
	(*e*) bare hard-drawn electrolytic copper wires and cables and other electrical wires and cables, insulated or not, and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof					
	NOTE.—The term 'industrial system' used in sub-item (*c*) means an installation designed to be employed directly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity.					
72 (1)	The following TEXTILE MACHINERY and APPARATUS by whatever power operated, namely, healds; heald cords and heald knitting needles; reeds and shuttles; warp and weft preparation machinery and looms; bobbins and pirns; dobbies; Jacquard machines; [1][Jacquard harness linen cords;] Jacquard cards; punching plates for Jacquard cards; warping mills; multiple box sleys; solid border sleys; tape sleys; swivel sleys; tape looms; wool carding machines; wool spinning machines; hosiery machinery; coir mat shearing machines; coir fibre willowing machines; heald knitting machines; dobby cards; lattices and lags for dobbies; wooden winders; silk looms; silk throwing and reeling machines; cotton yarn reeling machines; sizing	Revenue .	10 per cent. *ad valorem.*	..	..	..

[1] Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch. I, for "Jacquard harness linen cards".

Item No	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
72 (1) —contd	machines; doubling machines; silk twisting machines; cone winding machines; piano card cutting machines; harness building frames; card lacing frames; *drawing and denting hooks*, sewing thread balls making machines; cumbli finishing machinery, bank bollers; cotton carding and spinning machines; mall eyes, lingoes, comber boards and comber board frames; take-up motions, temples and pickers, picking bands, picking sticks; printing machines; roller cloth, clearer cloth; sizing flannel, and roller skins					
72 (2)	PRINTING AND LITHOGRAPHIC MATERIAL, namely, presses, lithographic plates, composing sticks, chases, imposing tables, lithographic stones, stereo-blocks, wood blocks, half-tone blocks, [1](*electro-type* blocks,) process blocks and highly polished copper or zinc sheets specially prepared for making process blocks, roller moulds, roller frames and stocks, roller composition, lithographic nap rollers, standing screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead cutters, rule cutters, slug cutters, type casting machines, type setting and casting machines, paper in rolls with side perforations to be used after further perforation for type-casting, rule bending machines, rule mitreing machines, bronzing machines, stereotyping apparatus, paper folding machines, paging machines but excluding ink and paper.	Revenue .	10 per cent *ad valorem*	..	..	..

[1] Subs by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch I, for " electric type blocks "

Item No	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony ;	
72 (3)	COMPONENT PARTS OF MACHINERY as defined in items Nos. 72, 72 (1) and 72 (2), namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose. Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable.	Revenue .	10 per cent *ad valorem.*	..	..	..
72 (4)	PASSENGER LIFTS and component parts and accessories thereof	Revenue .	25 per cent *ad valorem.*	..	..	..
72 (5)	DOMESTIC REFRIGERATORS	Preferential revenue	30 per cent *ad valorem*	20 per cent *ad valorem*	..	..
72 (6)	MACHINERY and component parts thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified, and any machines (except such as are designed to be used exclusively in industrial processes) which require for their operation less than one-quarter of one brake-horse-power	Preferential revenue.	30 per cent *ad valorem.*	20 per cent. *ad valorem*	..	..
72 (7)	WATER-LIFTS, SUGAR-MILLS, sugar centrifuges, sugar pugmills, oil-presses, and parts thereof, when constructed so that they can be worked by manual or animal power and pans for boiling sugar-cane juice.	..	Free	..	..	..

Item No	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		*Duration* of protective rates of duty.
				The United Kingdom	A British Colony.	
72 (8)	The following AGRICULTURAL IMPLEMENTS, namely, winnowers, threshers, mowing and reaping machines, binding machines, elevators, seed and corn crushers, chaff-cutters, root-cutters, ensilage-cutters, horse and bullock gear, ploughs, cultivators, scarifiers, harrows, clodcrushers, seed-drills, hay tedders, hay presses, potato-diggers, latex spouts, spraying machines, powder-blowers, white-ant exterminating machines, beet pullers, broadcast seeders, corn-pickers, corn shellers, cultipackers, drag scrapers, stalk cutters, huskers and shredders, potato planters, lime sowers, manure spreaders, listers, soil graders, and rakes, also agricultural tractors, also component parts of these implements, machines or tractors, *provided* that they can be readily fitted into their proper places in the implements, machines or tractors for which they are imported, and that they cannot ordinarily be used for purposes unconnected with agriculture	..	Free . . .	..	..	..
72 (9)	The following DAIRY AND POULTRY FARMING APPLIANCES, namely, cream separators, milking machines, milk sterilizing or pasteurizing plant, milk aerating and cooling apparatus, churns, butter dryers, butter workers, milk-bottle fillers and cappers, apparatus specially designed for testing milk and other dairy produce, and incubators, also component parts of these appliances, provided that they can be readily fitted into their proper places in the appliances for which they are imported, and that they cannot ordinarily be used for other than dairy and poultry farming purposes.	..	Free . . .	..	..	..

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of — The United Kingdom	Preferential rate of duty if the article is the produce or manufacture of — A British Colony	Duration of protective rates of duty.
73	E [illegible]	[illegible]	[illegible] cent *ad*	20 per cent. *ad valorem*	..	..
73 (1)	T [illegible]	[illegible]	[illegible] cent. *ad*	20 per cent. *ad valorem.*	..	..
	Electrical Control Gear and Transmission Gear, namely, switches (excluding switch boards) fuses and current-breaking devices of all sorts and descriptions, designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts, and regulators for use with motors designed to consume less than 187 watts, bare or insulated copper wires and cables, any one core of which, not being one specially designed as a pilot core has a sectional area of less than one-eightieth part of a square inch, and wires and cables of other metals of not more than equivalent conductivity, and line insulators, including also cleats, connectors, leading in tubes and the like of types and sizes such as are ordinarily used in connection with the transmission of power for other than industrial purposes, and the fittings thereof but excluding electrical earthenware and porcelain otherwise specified					
73 (2)	The following ELECTRICAL INSTRUMENTS, APPARATUS AND APPLIANCES, namely, telegraphic and telephonic instruments, apparatus and appliances not otherwise specified, flash lights, carbons, condensors, and bell apparatus and switch-boards designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts	Revenue .	25 per cent *ad valorem.*	..	..	..

Item No	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
72 (8)	The following AGRICULTURAL IMPLEMENTS, namely, winnowers, threshers, mowing and reaping machines, binding machines, elevators, seed and corn crushers, chaff-cutters, root-cutters, ensilage-cutters, horse and bullock gear, ploughs, cultivators, scarifiers, harrows, clodcrushers, seed-drills, hay tedders, hay presses, potato-diggers, latex spouts, spraying machines, powder-blowers, white-ant exterminating machines, beet pullers, broadcast seeders, corn-pickers, corn shellers, cultipackers, drag scrapers, stalk cutters, huskers and shredders, potato planters, lime sowers, manure spreaders, listers, soil graders, and rakes, also agricultural tractors, also component parts of these implements, machines or tractors provided that they can be readily fitted into their proper places in the implements, machines or tractors for which they are imported, and that they cannot ordinarily be used for purposes unconnected with agriculture	..	Free . . .	..	..	..
72 (9)	The following DAIRY AND POULTRY FARMING APPLIANCES, namely, cream separators, milking machines, milk sterilizing or pasteurizing plant, milk aerating and cooling apparatus, churns, butter dryers, butter workers, milk-bottle fillers and cappers, apparatus specially designed for testing milk and other dairy produce, and incubators; also component parts of these appliances, provided that they can be readily fitted into their proper places in the appliances for which they are imported, and that they cannot ordinarily be used for other than dairy and poultry farming purposes.	..	Free . . .	..	..	..

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
73	E[illegible]	[illegible]	[illegible] cent. ad [illegible]	20 per cent. *ad valorem*	..	..
73 (1)	The following ELECTRICAL INSTRUMENTS, APPARATUS AND APPLIANCES, namely — Electrical Control Gear and Transmission Gear, namely, switches (excluding switch-boards) fuses and current-breaking devices of all sorts and descriptions, designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts, and regulators for use with motors designed to consume less than 187 watts, bare or insulated copper wires and cables, any one core of which, not being one specially designed as a pilot core, has a sectional area of less than one-eightieth part of a square inch, and wires and cables of other metals of not more than equivalent conductivity, and line insulators, including also cleats, connectors, leading-in tubes and the like of types and sizes such as are ordinarily used in connection with the transmission of power for other than industrial purposes, and the fittings thereof but excluding electrical earthenware and porcelain otherwise specified	Preferential revenue.	30 per cent *ad valorem*.	20 per cent. *ad valorem*.	..	..
73 (2)	The following ELECTRICAL INSTRUMENTS, APPARATUS AND APPLIANCES, namely, telegraphic and telephonic instruments, apparatus and appliances not otherwise specified, flash lights, carbons, condensors, and bell apparatus, and switch boards designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts	Revenue .	25 per cent. *ad valorem*.	..	..	..

Item No	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
74 (1)	TRAMCARS and component parts and accessories thereof.	Revenue .	25 per cent. *ad valorem.*	..	..	..
74 (2)	RAILWAY MATERIALS for permanent-way and rolling-stock, namely, sleepers, *other than iron and* steel, and fastenings therefor, bearing plates, chairs, interlocking apparatus, brake-gear, shunting skids, couplings and springs, signals, turntables, weigh-bridges, carriages, wagons, traversers, rail removers, scooters, trollies, trucks, also cranes, water-cranes and water-tanks when imported by or under the orders of a railway administration: Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a State in India and also such tramways as the [1][Central Government] may, by notification in the [2][Official Gazette] specifically include therein: Provided also that articles of machinery as defined in Item No 72 or No. 72 (3) shall not be deemed to be included hereunder	Revenue .	15⅝ per cent. *ad valorem*	..	..	..
74 (3)	Component parts of Railway Materials, as defined in Item No 74 (2), namely, such parts only as are essential for the working of railways and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose: Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the railway material to which they belong, if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable	Revenue .	15⅝ per cent. *ad valorem.*	..	..	..

IX of 1890.

[1] Subs by the A O. for "G G. in C"
[2] Subs by the A. O. for "Gazette of India".

Item No.	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony	
75	CONVEYANCES not otherwise specified and component parts and accessories thereof; also MOTOR VANS and MOTOR LORRIES imported complete	Revenue .	25 per cent. *ad valorem.*	..	..	..
75 (1)	MOTOR CARS including taxicabs and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof, provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this Item or in Items Nos 75 (2) and 75 (3) shall be dutiable at the rate of duty specified for such articles.	Preferential revenue	37½ per cent *ad valorem.*	30 per cent. *ad valorem.*	..	..
75 (2)	MOTOR CYCLES and MOTOR SCOOTERS and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof except such articles as are also adapted for use as parts and accessories of motor cars	Revenue .	37½ per cent. *ad valorem*	..	..	..
75 (3)	MOTOR OMNIBUSES; chassis of motor omnibuses, motor vans and motor lorries; and *parts of mechanically propelled* vehicles and accessories not otherwise specified, excluding rubber tyres and tubes and such parts and accessories of motor vehicles included in this Item as are also adapted for use as parts and accessories of motor cars	Preferential revenue.	25 per cent. *ad valorem.*	17½ per cent. *ad valorem.*	..	..
75 (4)	CARRIAGES and CARTS which are not mechanically propelled, not otherwise specified, and cycles (other than motor cycles) imported entire or in sections and parts and accessories thereof, excluding rubber tyres and tubes.	Preferential revenue.	30 per cent. *ad valorem.*	20 per cent. *ad valorem.*	..	..

Item No	Name of article.	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
75	AEROPLANES, aeroplane parts, aeroplane engines, aeroplane engine parts and rubber tyres and tubes used exclusively for aeroplanes.	Revenue .	2½ per cent. *ad valorem*	..	..	..
76 (1)	SHIPS and other vessels for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections: Provided that articles of machinery as defined in Item No 72 or No 72 (3) shall, when separately imported, not be deemed to be included hereunder	Revenue .	15⅝ per cent. *ad valorem.*	..	..	..
76 (2)	LIGHT SHIPS . .	..	Free . . .	..	..	..
76 (3)	FURNITURE TACKLE and APPAREL, not otherwise described, for steam-sailing, rowing and other vessels.	Revenue .	25 per cent. *ad valorem.*	..	..	..

SECTION XVIII.

SCIENTIFIC AND PRECISION INSTRUMENTS AND APPARATUS: WATCHMAKERS' AND CLOCKMAKERS' WARES; MUSICAL INSTRUMENTS.

77	INSTRUMENTS, APPARATUS and APPLIANCES other than electrical, all sorts not otherwise specified, including photographic, scientific, philosophical and surgical	Preferential revenue.	30 per cent. *ad valorem*	20 per cent. *ad valorem*	..	..
77 (1)	INSTRUMENTS, APPARATUS and APPLIANCES, imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling.	..	Free . . .	..	..	..
77 (2)	OPTICAL INSTRUMENTS, APPARATUS and APPLIANCES	Revenue .	25 per cent. *ad valorem.*	..	..	..
78	CLOCKS and WATCHES and parts thereof.	Revenue .	50 per cent. *ad valorem.*	..	..	..
79	MUSICAL INSTRUMENTS and parts thereof, all sorts not otherwise specified	Preferential revenue	50 per cent. *ad valorem*	40 per cent *ad valorem.*	..	..
79 (1)	The following MUSICAL INSTRUMENTS, namely, complete organs and harmoniums and records for talking machines	Revenue .	50 per cent *ad valorem*	..	..	..

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	

SECTION XIX.

ARMS AND AMMUNITION.

Item No	Name of article	Nature of duty	Standard rate of duty	The United Kingdom	A British Colony.	Duration of protective rates of duty.
60	Save where otherwise specified, all articles which are arms or parts of arms within the meaning of the Indian Arms Act, 1878 (XI of 1878) (excluding springs used for air guns), all tools used for cleaning or putting together the same, all machines for making, loading, closing or capping cartridges for arms other than rifled arms and all other sorts of ammunition and military stores, and any articles which the [1][Central Government] may, by notification in the [2][Official Gazette], declare *to be ammunition or* military stores for the purposes of this Act	Revenue .	50 per cent *ad valorem*.	..	..	..
60 (1)	S[illegible] ing parts and accessories thereof	[illegible]	[illegible]	[illegible] 40 [illegible]nt. [illegible]m, [illegible]er [illegible]	..	..
60 (2)	Subject to the exemptions specified in Item No 80 (3)—					
	(a) Barrels, whether single or double, for firearms, including gas and air guns, gas and air rifles, and gas and air pistols, not otherwise specified	Revenue .	Rs. 18-12 each. } or 37½ per cent. *ad valorem*, whichever is higher, *plus* 12½ per cent. *ad valorem*.	..	..	..
	(b) Main springs and magazine springs for firearms, including gas guns, gas rifles and gas pistols	Revenue .	Rs 6-4 each.	..	..	..
	(c) Gun stocks and breech blocks	Revenue .	Rs. 3-12 each.	..	..	..
	(d) Revolver cylinders, for each cartridge they will carry	Revenue .	Rs. 2-8 each.	..	..	..
	(e) Actions (including skeleton and wasters), breech bolts and their heads, cocking pieces, and locks for muzzle loading arms	Revenue .	Re. 1-4 each.	..	..	..

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony	
80 (2) —*contd.*	Subject to the exemptions specified in Item No 80 (3)—*contd*					
	(*f*) Machines for making, loading, or closing cartridges for rifled arms	Revenue .	50 per cent. *ad valorem.*	..	..	..
	(*g*) Machines for capping cartridges for rifled arms	Revenue .	50 per cent. *ad valorem.*	..	..	..
80 (3)	The following ARMS, AMMUNITIONS and MILITARY STORES :—	..	Free . . .	..	..	..
	(*a*) Arms forming part of the regular equipment of a commissioned or gazetted officer in His Majesty's service entitled to wear diplomatic, military, naval, Royal Air Force or police uniform.					
	(*b*) A revolver and an automatic pistol and ammunition for such revolver and pistol up to a maximum of 100 rounds per revolver or pistol, (i) when accompanying a commissioned officer of His Majesty's regular forces, or of the Indian Auxiliary Force or the Indian Territorial Force or a gazetted police officer, or (ii) certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving or, in the case of a police officer, by an Inspector-General or Commissioner of Police, to be imported by the officer for the purpose of his equipment					
	(*c*) Swords for presentation as army or volunteer prizes.					
	(*d*) Arms, ammunition and military stores imported with the sanction of the [1]Central					

[1] Subs. by the A. O. for "G. of I."

Item No.	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of — The United Kingdom	Preferential rate of duty if the article is the produce or manufacture of — A British Colony.	Duration of protective rates of duty.
80 (3)—contd.	The following ARMS, AMMUNITIONS, and MILITARY STORES—contd					
	Government] for the use of any portion of the military forces of a State in India being a unit notified in pursuance of the First Schedule to the Indian Extradition Act, 1903.					
	(e) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments or volunteer corps for the instruction of their men					
80 (4)	ORNAMENTAL ARMS of an obsolete pattern possessing only an antiquarian value; masonic and theatrical and fancy dress swords, provided they are virtually useless for offensive or defensive purposes; and *dahs* intended exclusively for domestic, agricultural and industrial purposes.	Revenue .	25 per cent. *ad valorem.*	..	..	..
81	CARTRIDGE CASES, filled and empty.	Preferential revenue.	50 per cent. *ad valorem.*	40 per cent *ad valorem.*	..	..

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SECTION XX.

MISCELLANEOUS GOODS AND PRODUCTS NOT ELSEWHERE INCLUDED.

82	CORAL, prepared .	Revenue .	25 per cent. *ad valorem.*	..	..	..
82 (1)	IVORY, manufactured, not otherwise specified	Revenue .	50 per cent. *ad valorem.*	..	..	..
82 (2)	BANGLES and BEADS, not otherwise specified.	Revenue .	50 per cent. *ad valorem.*	..	..	..
83	BRUSHES, all sorts .	Preferential revenue.	30 per cent. *ad valorem.*	20 per cent. *ad valorem.*	..	..
84	TOYS, GAMES, PLAYING CARDS and requisites for games and sports, bird shot, toy cannons, air guns and air pistols for the time being excluded in any part of British India from the operation of all the prohibitions and directions contained in the Indian Arms Act, 1878, and bows and arrows.	Preferential revenue.	50 per cent. *ad valorem.*	40 per cent. *ad valorem.*	..	..

XI of 1878.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of — The United Kingdom	Preferential rate of duty if the article is the produce or manufacture of — A British Colony.	Duration of protective rates of duty.
85	BUTTONS, METAL .	Preferential revenue.	30 per cent. *ad valorem.*	20 per cent. *ad valorem*	..	..
85 (1)	SMOKERS' REQUISITES excluding tobacco and matches . Provided that mechanical lighters as defined in the Mechanical Lighters (Excise Duty) Act, 1934, shall be liable in addition to a duty equal to the amount of the excise duty imposed by that Act on mechanical lighters manufactured in British India	Preferential revenue.	50 per cent. *ad valorem.*	40 per cent. *ad valorem.*	..	..

XXIII of 1934.

SECTION XXI.

WORKS OF ART AND ARTICLES FOR COLLECTIONS.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	The United Kingdom	A British Colony.	Duration of protective rates of duty.
86	PRINTS, ENGRAVINGS and PICTURES (including photographs and picture post cards), not otherwise specified	Revenue .	50 per cent. *ad valorem.*	..	..	..
86 (1)	ART, WORKS OF, not otherwise specified.	Revenue .	25 per cent. *ad valorem.*	..	..	..
86 (2)	ART, the following WORKS OF :—(1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put up *in a public place*, including the materials used, or to be used in their construction, whether worked or not	..	Free . . .	..	..	..
86 (3)	SPECIMENS, MODELS and WALL DIAGRAMS illustrative of natural science, and medals and antique coins	..	Free . . .	..	..	..
86 (4)	POSTAGE STAMPS, whether used or unused.	..	Free . . .	..	..	..

SECTION XXII.

ARTICLES NOT OTHERWISE SPECIFIED.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	The United Kingdom	A British Colony.	Duration of protective rates of duty.
87	All other articles not otherwise specified, including articles imported by post.	Revenue .	25 per cent. *ad valorem*	..	..	..

THE SECOND SCHEDULE.

EXPORT TARIFF.

No.	Names of articles	Per	Rate of duty.
			Rs a.
	JUTE, other than Bimlipatam Jute		
1	RAW JUTE—		
	(1) Cuttings . . .	Bale of 400 lbs .	1 4
	(2) All other descriptions . . .	Bale of 400 lbs . .	4 8
2	JUTE MANUFACTURES, when not in actual use as coverings, receptacles or bindings for other goods—		
	(1) Sacking (cloth bags, twist, yarn, rope and twine)	Ton of 2,240 lbs . .	20 0
	(2) Hessians and all other descriptions of jute manufactures not otherwise specified	Ton of 2,240 lbs. . .	32 0
[1]	* * * *	* *	* *
	RICE		
4	RICE husked or unhusked, including rice flour but excluding rice bran and rice dust which are free	Indian maund of 82⅐ lbs avoirdupois weight	Two annas and three pies

THE THIRD SCHEDULE.—[ACTS REPEALED.] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s 3 and Sch. II.*

THE INDIAN NAVY (DISCIPLINE) ACT, 1934.

ACT NO. XXXIV OF 1934.[2]

[8th September, 1934.]

An Act to provide for the application of the Naval Discipline Act to the Indian Navy.

WHEREAS by section 66 of the Government of India Act it is among other things enacted that provision may be made by the Indian Legislature for the application to the naval forces raised by the Governor General in Council of the Naval Discipline Act subject to such modifications and adaptations as may be made by the said Legislature to adapt the Act to the circumstances of India; (29 & 30 Vict., c. 109.)

AND WHEREAS it is expedient to make such provision;

It is hereby enacted as follows:—

1. *(1)* This Act may be called the Indian Navy (Discipline) Act, 1934. Short title

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[1] The heading "SKINS" and item No. 3 under that heading were rep. by s 3 of the Indian Finance Act, 1935.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1933, Pt. V, p 232 and for Report of Select Committee, *see ibid.*, 1934, Pt. V, p. 257.

and commencement. (2) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definition. **2.** In this Act, unless there is anything repugnant in the subject or context,—

"the Indian Navy" means the naval forces and ships raised and provided by the [2][Central Government].

Application of the Naval Discipline Act to the Indian Navy. **3.** (*1*) The Naval Discipline Act shall apply to the Indian Navy as if that Act were in the form in which it is set forth in the First Schedule to this Act. 29 & 30 Vict., c. 109.

(*2*) In the application to the Indian Navy of the Naval Discipline Act as so set forth— 29 & 30 Vict., c. 109.

(*a*) "the Indian Navy" has the same meaning as in this Act, and

(*b*) references to His Majesty's Navy and His Majesty's ships shall be deemed to include the forces and ships constituting the Indian Navy.

4. [*Repeals.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE FIRST SCHEDULE.

(*See* section 3.)

THE NAVAL DISCIPLINE ACT

(29 and 30 Vict., c. 109)

(as modified for application to the Indian Navy).

An Act to make Provision for the Discipline of the Navy.

WHEREAS it is expedient to amend the law relating to the Government of the Navy, whereon, under the good Providence of God, the wealth, safety, and strength of the Kingdom chiefly depend:

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.

ARTICLES OF WAR.

Public Worship.

Facilities for the performance of religious duties. **1.** All officers in command of ships of the Indian Navy shall give reasonable facilities for the performance of religious duties by the officers and mem-

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[1] 2nd October, 1934 · *see* Gazette of India, 1934, Extraordinary, p. 227.
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "Gazette of India".

bers of the crews of their respective ships to each man according to his religion.

Misconduct in the Presence of the Enemy.

2. Every flag officer, captain, commander or officer commanding subject to this Act who upon signal of battle, or on sight of a ship of an enemy which it may be his duty to engage shall not, **Penalty for misconduct in action.**

(1) use his utmost exertion to bring his ship into action ;
(2) or shall not during such action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously ;
(3) or who shall surrender his ship to the enemy when capable of making a successful defence, or who in time of action shall improperly withdraw from the fight,

shall, if he has acted traitorously, suffer death ; if he has acted from cowardice, shall suffer death, or such other punishment as is hereinafter mentioned ; and if he has acted from negligence or through other default, he shall be dismissed from His Majesty's service with or without disgrace, or shall suffer such other punishment as is hereinafter mentioned.

3. Every officer subject to this Act who shall forbear to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or shall not relieve and assist a known friend in view to the utmost of his power, or who shall improperly forsake his station, shall, if he has therein acted traitorously, suffer death ; if he has acted from cowardice, suffer death or such other punishment as is hereinafter mentioned ; if he has acted from negligence or through other default, shall be dismissed from His Majesty's service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned. **Penalty for not pursuing the enemy, and of not assisting a friend in view.**

4. When any action or any service is commanded, every person subject to this Act who shall presume to delay or discourage the said action or service upon any pretence whatsoever, or in the presence or vicinity of the enemy shall desert his post or sleep upon his watch, shall suffer death or such other punishment as is hereinafter mentioned. **Penalty for delaying or discouraging the service deserting his post, etc.**

5. Every person subject to this Act, and not being [illegible] who shall not use his utmost exertions to carry the [illegible] officers into execution when ordered to prepare for act[illegible]tion, shall, if he has acted traitorously, suffer death ; [illegible] cowardice, shall suffer death, or such other punishment as is hereinafter mentioned ; and if he has acted from negligence or through other default, be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

6. All spies for the enemy shall be deemed to be persons subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned. **Penalty for spies.**

Penalty for corresponding, etc., with the enemy

7. Every person subject to this Act who shall—

(1) traitorously hold correspondence with or shall give intelligence to the enemy;

(2) or fail to make known to the proper authorities any information he may have received from the enemy;

(3) or who shall relieve the enemy with any supplies, shall suffer death, or such other punishment as is hereinafter mentioned.

Penalty for improper communication with the enemy.

8. Every person subject to this Act who shall, without any treacherous intention, hold any improper communication with the enemy, shall be dismissed with disgrace from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned.

Neglect of duty.

Penalty for abandoning post, etc

9. Every person subject to this Act who shall desert his post or sleep upon his watch, or negligently perform the duty imposed on him, shall be dismissed from His Majesty's service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

Mutiny.

Penalty for mutiny accompanied by acts of violence

10. Where mutiny is accompanied by violence, every person subject to this Act who shall join therein shall suffer death or such other punishment as is hereinafter mentioned; and every person subject to this Act who shall not use his utmost exertions to suppress such mutiny shall, if he has acted traitorously, suffer death, or such other punishment as is hereinafter mentioned; if he has acted from cowardice, shall suffer penal servitude or such other punishment as is hereinafter mentioned, if he has acted from negligence, he shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for mutiny not accompanied by acts of violence.

11. Where a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is hereinafter mentioned; and all other persons who shall join in such mutiny, or shall not use their utmost exertions to suppress the same, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for inciting to mutiny.

12. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act from his duty or allegiance to His Majesty, or endeavour to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for civilians endeavouring to seduce from allegiance.

13. Every person, not otherwise subject to this Act, who, being on board any ship of His Majesty, shall endeavour to seduce from his duty or allegiance to His Majesty any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

14. Every person subject to this Act who shall make or endeavour to make any mutinous assembly, or shall lead or incite any other person to join in any mutinous assembly or shall utter any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Penalty for making mutinous assemblies or uttering seditious words.

15. Every person subject to this Act who shall wilfully conceal any traitorous or mutinous practice or design or any traitorous or mutinous words spoken against His Majesty, or any words, practice, or design tending to the hinderance of the service shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Penalty for concealing any traitorous or mutinous practice, design, or words.

16. Every person subject to this Act who shall strike or attempt to strike, or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer whether or not such superior officer is in the execution of his office, shall be punished with penal servitude or such other punishment as is hereinafter mentioned.

Punishment for striking or attempting to strike, etc., superior officer.

Insubordination.

17. Every person subject to this Act who shall wilfully disobey any lawful command of his superior officer, or shall use threatening or insulting language, or behave with contempt to his superior officer, shall be punished with dismissal with disgrace from His Majesty's service, or suffer such other punishment as is hereinafter mentioned.

Penalty for disobedience or using threatening language to superior officer.

18. Every person subject to this Act who shall quarrel or fight with any other person, whether such other person be or be not subject to this Act, or shall use reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for quarrelling, etc., or using reproachful speech or gestures.

Desertion and Absence without Leave.

19. Every person subject to this Act who shall absent himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who shall at any time and under any circumstances when absent from his ship or place of duty, do any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted, and shall be punished accordingly; that is to say,

Penalty for desertion.

(1) if he has deserted to the enemy, he shall be punished with death or such other punishment as is hereinafter mentioned;

(2) if he has deserted under any other circumstances, he shall be punished with penal servitude or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money, and allowances that have been earned by him and all annuities, pensions, gratuities, medals, and decorations that may have been granted

to him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted, unless the tribunal by which he is tried, or the [1][Central Government], shall otherwise direct.

Penalty for inducing any person to desert.

20. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for entertaining a deserter.

21. Every officer in command of any ship of His Majesty who shall receive or entertain any deserter from His Majesty's naval, military, or air forces, after discovering him to be a deserter, and shall not with all convenient speed, in the case of a deserter from His Majesty's naval forces, give notice to the commanding officer of the ship to which such deserter belongs, or, if such ship is at a distance, to the [1][Central Government] or to the Officer Commanding the Indian Navy, or, in case of a deserter from His Majesty's military or air forces, give notice to the [1][Central Government], or the commanding officer of the regiment or unit to which such deserter belongs, the officer so offending shall be dismissed from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned.

Punishment for breaking out of ship.

22. If any person subject to this Act (without being guilty of desertion) improperly leaves his ship or place of duty, he shall be liable to imprisonment or to such other punishment as is hereinafter mentioned, and to such other punishment by forfeiture of wages or of other benefits as the [1][Central Government] from time to time by regulations prescribes.

Penalty for absence without leave.

23. Every person subject to this Act who (without being guilty of desertion or of improperly leaving his ship or place of duty) shall be absent without leave shall be liable in time of war to imprisonment or such other punishment as is hereinafter mentioned, and at other times to imprisonment or detention for any period not exceeding ten weeks, or such other punishment as the circumstances of the case may require, and to such other punishment by forfeiture of wages or of other benefits as the [1][Central Government] from time to time by regulations prescribes.

Forfeiture of effects for absence without leave.

24. If any person subject to this Act is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not), but is not apprehended and tried for his offence, he shall be liable to forfeiture of wages and other benefits as the [1][Central Government] from time to time by regulations prescribes, and the [1][Central Government] may by an order containing a statement of the absence without leave direct that the clothes and effects (if any) left by him on board ship or at his place of duty be forfeited, and the same may be sold, and the proceeds of the sale shall be disposed of as the [1][Central Government] may direct; and every order under this provision for forfeiture or sale shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named; but in any case the [1][Central Government] may, if it seems fit on sufficient cause being shown at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds of the

[1] Subs. by the A. O. for "G. G. in C."

sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his representatives.

25. If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty, or conceals, employs or continues to employ any person subject to this Act, who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent, he shall for every such offence of assistance, procurement, concealment, employment or continuance of employment, be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, 1898, or before any person or persons or court exercising like authority in any part of His Majesty's dominions, to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the [1][Central Government] directs. **Penalty for assisting, etc., desertion.** V of 1898.

26. If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty, he shall for every such offence be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, 1898, or before any person or persons or court, exercising like authority in any part of His Majesty's dominions, to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the [1][Central Government] directs. **Penalty for persuading to desertion, etc.** V of 1898.

Miscellaneous Offences.

27. Every person subject to this Act who shall be guilty of any profane oath, cursing, execration, drunkenness, uncleanness or other scandalous action in derogation of God's honour and corruption of good manners, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned. **Penalty for profane swearing and other immoralities.**

28. Every officer subject to this Act who shall be guilty of cruelty, or of any scandalous or fraudulent conduct, shall be dismissed with disgrace from His Majesty's service, and every officer subject to this Act who shall be guilty of any other conduct unbecoming the character of an officer shall be dismissed, with or without disgrace, from His Majesty's service. **Penalty on officer for cruelty or oppression.**

29. Every person subject to this Act who shall either designedly or negligently or by any default lose, strand, or hazard or suffer to be lost, stranded, or hazarded, any ship of His Majesty or in His Majesty's service, or lose or suffer to be lost any aircraft of His Majesty or in His Majesty's service, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned. **Penalty for suffering ships or aircraft to be improperly lost.**

30. The officers of all ships of His Majesty appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions in that behalf, and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse **Penalty for not taking care of and defending ships under convoy.**

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[1] Subs. by the A. O. for "G. G. in C."

to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or exact any money or other reward from any merchant or master for convoying any ships or vessels intrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death or such other punishment as is hereinafter mentioned.

Master of merchant vessel to obey orders of convoying officer.

31. Every master or other officer in command of any merchant or other vessel under the convoy of any ship of His Majesty shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy, and shall take such precautions for avoiding the enemy as may be directed by such commanding officer, and if he shall fail to obey such directions such commanding officer may compel obedience by force of arms without being liable for any loss of life or of property that may result from his using such force.

Penalty for taking any goods on board other than for the use of the vessel except gold, silver, jewels, etc

32. Every officer in command of any of His Majesty's ships who shall receive on board or permit to be received on board such ship any goods or merchandises whatsoever, other than for the sole use of the ship, except gold, silver, or jewels, and except goods and merchandise belonging to any merchant, or on board any ship which may be shipwrecked or in imminent danger, either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the [1][Central Government] or his superior officer, shall be dismissed from His Majesty's service, or suffer such other punishment as is hereinafter mentioned.

Penalty for embezzling public stores.

33. Every person subject to this Act who shall wastefully expend, embezzle, or fraudulently buy, sell or receive any ammunition, provisions, or other public stores, and every person subject to this Act, who shall knowingly permit any such wasteful expenditure, embezzlement, sale, or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for burning any magazine or vessel, etc, not belonging to an enemy.

34. Every person subject to this Act who shall unlawfully set fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores, or to any ship, vessel, hoy, barge, boat, or other craft or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for making or signing false musters.

35. Every person subject to this Act who shall knowingly make or sign a false muster or record or other official document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other person in the making or signing thereof, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

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[1] Subs. by the A. O. for "G. G. in C."

Penalty for misconduct in hospital.

36. Every person subject to this Act who shall wilfully do any act or wilfully disobey any orders, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity, or to delay his cure, or who shall feign any disease, infirmity, or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for endeavouring to stir up any disturbance on account of unwholesomeness of the victuals or other just grounds.

37. Every person subject to this Act who shall have any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or to the officer commanding the Indian Navy, and the said superior, captain, or officer, shall, as far as he is able, cause the same to be presently remedied; and no person subject to this Act upon any pretence whatever shall attempt to stir up any disturbance, upon pain of such punishment as a court-martial may think fit to inflict, according to the degree of offence.

Penalty for not sending to the Court of Admiralty all papers found aboard prize ships.

38. All the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized, or found aboard any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the Court of Admiralty, or such other court or commissioners as shall be authorised to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned, and in addition thereto shall forfeit and lose his share of the capture.

Penalty for taking money or other effects out of any prize before the same shall be condemned.

39. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of any of His Majesty's ships and vessels of war, before the same be adjudged lawful prize in some Admiralty Court, but the full and entire account of the whole without embezzlement shall be brought in and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned, and in addition thereto forfeit and lose his share of the capture.

Penalty for stripping or ill-using persons taken on board as prize.

40. *If any ship or vessel shall be taken as prize, none of the officers, mariners,* or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty on commanders capturing as prize by collusion or collusively restoring ships or goods.

41. If the commanding officer of any of His Majesty's ships does any of the following things, namely,

(1) by collusion with the enemy takes as prize any vessel, goods, or thing;

(2) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize, or

(3) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize;

he shall be liable to dismissal from His Majesty's service, with disgrace, or to such other punishment as is hereinafter mentioned.

Penalty for breaking bulk on board prize ship with a view to embezzlement.

42. If any person subject to this Act breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right, or under any Act relating to piracy or to the slave trade or to the Customs, with intent to embezzle anything therein or belonging thereto, he shall be liable to dismissal from His Majesty's service, with disgrace, or to such other punishment as is hereinafter mentioned, and in addition thereto to forfeit and lose his share of the capture.

Penalty for offences against naval discipline not particularly mentioned.

43. Every person subject to this Act who shall be guilty of any act, disorder, or neglect to the prejudice of good order and naval discipline, not hereinbefore specified, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Crimes to be punished according to laws and customs in use.

44. Any person subject to this Act committing any offence against this Act, such offence not being punishable with death or penal servitude, shall, save where this Act expressly otherwise provides, be proceeded against and punished according to the laws and customs in such cases used at sea.

OFFENCES PUNISHABLE BY ORDINARY LAW.

Penalty for offences punishable by ordinary law.

45. Every person subject to this Act who shall be guilty of an offence punishable under section 302, 304, 304A, 377, 377 read with 511, 379, 380, 381, 382, or 392 of the Indian Penal Code shall be punishable with the punishment provided in that Code for the offence. XLV of 1

If any such person shall be guilty of any other criminal offence which if committed in British India would be punishable by the law of British India, he shall, whether the offence be or be not committed in British India, be punished either in pursuance of the first part of this Act as for an act to the prejudice of good order and naval discipline not otherwise specified, or the offender shall be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try the offender if the offence had been committed in British India.

Offences when punishable.

46. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of British India, or anywhere within the jurisdiction of the Admiralty, or at any place on shore out of British India, or in any of His Majesty's dockyards, victualling yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to His Majesty or in any other premises held by or on behalf of the Crown for naval or military purposes, or in any canteen or sailors' home or any place of recreation placed at the disposal of or used by officers or men of His Majesty's Navy which may be prescribed by the [1][Central Government], whether in

[1] Subs. by the A. O. for "G. G. in C."

or out of British India, the offender may be tried and punished under this Act; and for all offences hereinbefore specified under the headings "misconduct in the presence of the enemy", "communications with the enemy", "neglect of duty", "mutiny", "insubordination", "desertion and absence without leave", or "miscellaneous offences", if committed by any person subject to this Act at any place on shore, whether in or out of British India, the offender may be tried and punished under this Act.

Provisions where offender has ceased to be subject to the Act.

46A. (*1*) Where an offence under this Act has been committed by any person while subject to this Act, such person may be taken into and kept in custody and tried and punished for such offence although he has ceased to be subject to this Act in like manner as he might have been taken into and kept in custody, tried, or punished if he had continued so subject:

Provided that where a person has since the commission of an offence ceased to be subject to this Act, he shall not be tried for such offence, except in case of offences of mutiny or desertion, unless proceedings against him are instituted within three months after he has ceased to be subject to this Act, but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court as well as by court-martial.

(*2*) Where a person subject to this Act is sentenced under this Act to penal servitude, imprisonment, or detention, this Act shall apply to him during the term of his sentence notwithstanding that he is discharged or dismissed from His Majesty's service, or has otherwise ceased to be subject to this Act, and he may be kept in custody, removed, imprisoned, made to undergo detention and punished accordingly, as if he had continued to be subject to this Act.

PART II.

GENERAL PROVISIONS.

Power of court martial to find intent with which offence committed.

47. Where the amount of punishment for any offence under this Act depends upon the intent with which it has been committed, and any person is charged with having committed such offence with an intent involving a greater degree of punishment, a court-martial may find that the offence was committed with an intent involving a less degree of punishment, and award such punishment accordingly.

Power of *court-martial* to find prisoner guilty of lesser offence on charge of greater.

48. Where any person shall be charged with any offence under this Act he may, upon failure of proof of the commission of the greater offence, be found guilty of another offence of the same class involving a less degree of punishment, but not of any offence involving a greater degree of punishment.

Rebels and mutineers to be deemed enemies.

49. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

Power to arrest *offenders*.

50. Every officer in command of a fleet or squadron of His Majesty's ships, or of one of His Majesty's ships, or the senior officer present at a port, or an officer having by virtue of sub-section (3) of section fifty-six of this

Act power to try offences, may, by warrant under his hand, authorise any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant; and any such warrant may include the names of more persons than one in respect of several offences of the same nature; and any person named in any such warrant may forthwith, on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or some other of His Majesty's ships; and any person so authorised may use force, if necessary, for the purpose of effecting such apprehension, towards any person subject to this Act.

Penalty for not assisting in detection of prisoners.

51. Every person subject to this Act who shall not use his utmost endeavours to detect, apprehend and bring to punishment all offenders against this Act, and shall not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

PART III.

Regulations as to Punishments.

Punishments

52. The following punishments may be inflicted in His Majesty's Navy :—

(1) Death :

(2) Penal servitude :

(3) Dismissal with disgrace from His Majesty's service :

(4) Imprisonment or corporal punishment :

(4A) Detention :

(5) Dismissal from His Majesty's service :

(6) Forfeiture of seniority as an officer for a specified time, or otherwise :

(7) Dismissal from the ship to which the offender belongs :

(8) Severe reprimand, or reprimand :

(9) Disrating a subordinate or petty officer :

(10) Forfeiture of pay, head money, bounty, salvage, prize money and allowances earned by, and of all annuities, pensions, gratuities, medals, and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs:

(11) Such minor punishments as are now inflicted according to the custom of the navy, or may from time to time be allowed by the [1][Central Government] :

And each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

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[1] Subs. by the A. O. for "G. G. in C."

Regulations as to infliction of punishments.

53. The following regulations are hereby made with respect to the infliction of punishments in His Majesty's Navy :—

(1) The powers to suspend, remit or commute sentences of punishment shall be the powers conferred by and shall be exercised in accordance with the provisions of sections 401 and 402 of the Code of Criminal Procedure, 1898, save that such powers shall not be exercisable by the [1][Provincial Government], and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed, with such modification, by the court-martial; but so that neither the degree nor the duration of the punishment involved in any sentence be increased by any such modification : (V of 1898.)

(2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the court-martial, where the number does not exceed five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence :

(3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by the [2][Central Government] :

(4) The punishment of penal servitude may be inflicted for the term of life or for any other term of not less than three years

(5) The punishment of penal servitude shall in all cases involve dismissal with disgrace from His Majesty's service :

(6) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to the offender, and an incapacity to serve His Majesty again in any military, naval, air force, or civil service, and may also in all cases be accompanied by a sentence of imprisonment :

(7) The punishment of imprisonment may be inflicted for any term not exceeding two years and may be accompanied with a sentence of dismissal from His Majesty's service :

(8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term not exceeding fourteen days at any one time, and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement ; and when the imprisonment awarded exceeds eighty-four days,

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "G. G. in C."

the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods :

(9) A sentence of imprisonment may be rigorous or simple, or partly rigorous and partly simple, and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement and hard labour or either of them :

(9A) The punishment of detention may be inflicted for any term not exceeding two years :

Provided that, until naval detention quarters shall have been set apart and declared to be such by the [1][Central Government] by notification in the [2][Official Gazette], no sentence of detention shall be awarded :

(10) The punishment of imprisonment, or detention whether on board ship or on shore, shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marines, and shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment or detention : provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay or wages during the term of detention :

(11) In any case of corporal punishment not more than forty-eight lashes shall be inflicted : no officer shall be subject to detention or to corporal punishment : no petty or non-commissioned officer shall be subject to corporal punishment except in case of mutiny.

All other punishments authorised by this Act may be inflicted in the manner heretofore in use in the navy.

Substitution of "imprisonment" for "penal servitude" in certain cases.

53A. (*1*) Where a person other than a European or American is sentenced to penal servitude, the authority sentencing him shall record such sentence and the term thereof and at the same time shall record an order substituting for such sentence a sentence of transportation which may be for life, or of rigorous imprisonment not exceeding fourteen years.

(*2*) For the purposes of this Act, unless there is anything repugnant in the subject or context, "penal servitude" includes transportation or rigorous imprisonment substituted for penal servitude in accordance with this section.

Limitation of time for trials.

54. No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".

years from the commission of such offence or within one year after the return of such offender to India, where he has been absent from India during such period of three years.

55. Subject to the foregoing regulations, where any punishment is specified by this Act as the penalty for any offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment, according to the scale hereinbefore mentioned; but corporal punishment shall be deemed equal in degree to imprisonment, and may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment. **Scale of punishment.**

56. (*1*) Any offence triable under this Act may be tried and punished by court-martial. **Authorities having power to try offences.**

(2) Any offence not capital which is triable under this Act, and (except in the cases by this Act expressly provided for) is not committed by an officer, may, under such regulations as the [1][Central Government] from time to time issues, be summarily tried and punished by the officer in command of the ship to which the offender belongs at the time either of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award penal servitude or to award imprisonment or detention for more than three months

(3) The power by this section vested in an officer commanding a ship may,—

(*a*) as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders; and

(*b*) as respects persons, on board any boat or boats belonging to the ship, be exercised when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats, and

(*c*) as respects persons subject to this Act on detached service either on shore or otherwise, or such of those persons as are not for the time being made subject to military law by an order under section one hundred and seventy-nine of the Army Act, 1881, be exercised by the officer in immediate command of those persons, and **44 & 45 Vict., c. 58.**

(*d*) as respects persons subject to this Act quartered in naval barracks, be exercised by the officer in command of those barracks.

(*4*) Except in case of mutiny, no man shall be sentenced by the commanding officer to corporal punishment until his offence has been inquired into by one or more officers appointed by such commanding officer, and his

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[1] Subs. by the A O. for "G. G. in C."

or their opinion as to the guilt or innocence of the person charged reported to such commanding officer, and the commanding officer shall thereupon act as according to his judgment may seem right.

Forfeiture of time or seniority.

57. The [1][Central Government] may impose the punishment of forfeiture of time or seniority of not more than twelve months on any subordinate officer.

Trial of officers for disciplinary offences in time of war.

57A. (*1*) Where any officer borne on the books of any of His Majesty's ships in commission is in time of war alleged to have been guilty of a disciplinary offence, that is to say, a breach of section seventeen, eighteen, nineteen, twenty-two, twenty-three, twenty-seven, or forty-three of this Act, the officer having power to order a court-martial may, if he considers that the offence is of such a character as not to necessitate trial by court-martial, in lieu of ordering a court-martial order a disciplinary court constituted as hereinafter mentioned.

(*2*) A disciplinary court shall be composed of not less than three nor more than five officers, of whom one shall be a commander or of higher rank.

(*3*) A disciplinary court shall have power to impose any punishment inferior to detention in the scale hereinbefore contained, but no greater punishment.

(*4*) The [1][Central Government] may from time to time frame general orders for regulating the assembling, constitution and procedure and practice of disciplinary courts under this section, and may by those regulations apply, with the necessary modifications, to disciplinary courts the provisions of sections sixty-two to sixty-four and sections sixty-six to sixty-nine of this Act relating to courts-martial, and the regulations shall provide for evidence being taken on oath and empower the court to administer oaths for that purpose.

PART IV.

COURTS-MARTIAL.

Constitution of Courts-Martial.

Constitution of courts-martial.

58. The *following regulations are hereby* made with respect to courts-martial :—

(1) A court-martial shall consist of not less than five nor more than nine officers :

(2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander, lieutenant-commander, or lieutenant of His Majesty's navy on full pay :

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[1] Subs. by the A. O. for "G. G. in C."

(3) A court-martial shall not be held unless at least two of His Majesty's ships, not being tenders, and commanded by captains, commanders, lieutenant-commanders, or lieutenants of His Majesty's navy on full pay, are together at the time when such court-martial is held.

(4) No officer shall sit on a court-martial who is under twenty-one years of age:

(5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank:

(6) No court-martial for the trial of a captain in His Majesty's navy shall be duly constituted unless the president is a captain or of higher rank, and the other officers composing the court are commanders or officers of higher rank

(7) No court-martial for the trial of a person below the rank of captain in His Majesty's navy shall be duly constituted, unless the president is a captain or of higher rank, nor, if the person to be tried is of the rank of commander, unless in addition to the president two other members of the court are of the rank of commander or of higher rank.

(8) The prosecutor shall not sit on any court-martial for the trial of a person whom he prosecutes

(9) The [1][Central Government] shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of His Majesty's navy on full pay authorising him to order courts-martial to be held for the trial of such offences

(10) An officer holding a commission from the [1][Central Government] to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held any officer superior in rank to himself on full pay and in command of one or more of His Majesty's ships or vessels, although such last-mentioned officer may not hold a commission to order courts-martial; and in such a case such last-mentioned officer may order a court-martial, although he does not hold any commission for the purpose:

(11) If any officer holding a commission from the [1][Central Government] to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be re-called, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of

[1] Subs. by the A. O. for "G. G. in C."

the fleet or squadron, shall, without any commission from the [1][Central Government], have the same power to order courts-martial as the first-mentioned officer was invested with :

(12) If any officer holding a commission from the [1][Central Government] to order courts-martial, and having the command of any fleet or squadron of His Majesty's ships in foreign parts shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower, in the first-mentioned case, the commanding officer of the squadron or detachment ordered on such separate service, and in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of His Majesty's ships on the division of the station from which he is absent, to order courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to India, or until he comes into the presence of a superior officer, empowered to order courts-martial in the same squadron, detachment, or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires :

(13) The officer ordering a court-martial shall not sit thereon :

(14) The President of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president :

(15) No commander, *lieutenant-commander,* or *lieutenant shall* be required to sit as a member of any court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the court-martial is to be holden (but the regularity or validity of any court-martial or of the proceedings thereof shall not be affected by any commander, lieutenant-commander, or lieutenant being required to sit, or sitting, thereon, under any circumstances); and when any commander, *lieutenant-commander or lieutenant* sits on any court-martial the members of it shall not exceed five in number :

(16) Subject to the foregoing regulations, whenever a court-martial shall be held the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where the court-martial shall be held to sit thereon, until

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[1] Subs. by the A. O. for " G. G. in C."

the number of nine, or such number, not less than five, as is attainable, is complete; subject to this proviso, that the admirals and captains being superintendents of His Majesty's dockyards shall not be summoned to sit on courts-martial unless specially directed to do so by orders from the [1][Central Government].

Proceedings of Courts-Martial.

Where courts-martial to be held.

59. A court-martial under this Act shall be held on board one of His Majesty's ships or vessels of war, unless the [1][Central Government] or the officer who ordered the court-martial in any particular case for reasons to be recorded on the proceedings otherwise direct, in which case the court-martial shall be held at a port at such convenient place on shore as the [1][Central Government] or the officer who ordered the court-martial shall direct.

As to time of sittings of courts-martial.

60. A court-martial held in pursuance of this Act may, if it appears to the court that an adjournment is desirable, be adjourned for a period not exceeding six days, but except where such an adjournment is ordered shall sit from day to day, with the exception of Sundays, until sentence is given, unless prevented from so doing by stress of weather or unavoidable accident, and its proceedings shall not be delayed by the absence of any member, so that not less than four are present, and no member shall absent himself unless compelled so to do by sickness or other just cause, to be approved of by the other members of the court, and if any member of a court-martial shall absent himself therefrom, in contravention of this section, he shall be dismissed from His Majesty's service, or shall suffer such other punishment as may be awarded by a court-martial.

Appointment of officiating judge advocate.

61. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the [1][Central Government], or by the Officer Commanding the Indian Navy, the officer who is to be the president of the court-martial shall appoint a person to officiate as deputy judge advocate at the trial; and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial.

Proceedings at trial.

62. As soon as the court is assembled, the names of the officers composing the court shall be read over to the person charged, who shall be asked if he objects to being tried by any member of the court; if the person charged shall object to any member, the objection shall be decided by the court; if the objection shall be allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the court-martial, subject to the regulations hereinbefore contained.

The person charged may then raise any other objection which he desires to make respecting the constitution of the court-martial, and the objection shall then be decided by the court, which decision shall be final, and the constitution of the court-martial shall not be afterwards impeached, and it shall be deemed to have been in all respects duly constituted.

[1] Subs. by the A. O. for "G. G. in C."

Oaths to be administered to members of courts-martial.

63. Before the court shall proceed to try the person charged, the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate of the fleet, shall administer to every member of the court the following oath; that is to say,

'I do swear that I will duly administer justice according to law, without partiality, favour, or affection; and I do further swear that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

So help me God.':

Provided that an affirmation to the same effect in such terms as the [1][Central Government] may prescribe in this behalf may be substituted for such oath.

Oaths to be administered to judge advocate, etc.

64. As soon as the said oath shall be administered to the members of the court-martial, the president shall administer to the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate, the following oath:

'I do swear that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless thereunto required in due course of law.

So help me God.':

Provided that an affirmation to the same effect in such terms as the [1][Central Government] may prescribe in this behalf may be substituted for such oath.

Power to Central Government to apply general orders framed by Admiralty for practice of courts-martial.

65. The [1][Central Government] may apply to the Indian Navy such general orders altering and regulating the procedure and practice of courts-martial as may from time to time be framed by the Admiralty and approved by His Majesty in Council subject to such modifications as the [1][Central Government] may deem necessary to adapt them to the circumstances of the Indian Navy:

Provided that no modification shall be made which involves any racial discrimination.

Summoning witnesses

66. Every person, civil, naval, and military, or belonging to the air force, who may be required to give evidence before a court-martial shall be summoned by writing under the hand of a Secretary to the [2][Central Government], or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial; and all persons so summoned and attending as witnesses before any court-martial shall, during their necessary attendance in or on such court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the court out of which the writ or process issued by which such witness

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "G of I."

was arrested, or if such court be not sitting, then by any judge of the Superior Courts of Westminster or Dublin, or the Court of Session in Scotland, or of the courts of law in the East or West Indies or elsewhere, according as the case shall require, upon its being made to appear to such court or judge, by any affidavit in a summary way, that such witness was arrested in going to or returning from or attending upon such court-martial; and all witnesses so duly summoned as aforesaid who make default in attending on such courts, or attending refuse to be sworn or make affirmation, or being sworn or having made affirmation refuse to give evidence or to answer all such questions as the court may legally demand of them, or prevaricate in giving their evidence, shall, upon certificate thereof under the hand of the president of such court-martial, be liable to be attached in the Court of Queen's Bench in London or Dublin, or the Court of Session, or Sheriff depute or stewarts depute, or their respective substitutes, within their several shires and stewartries in Scotland, or courts of law in the East or West Indies, or in any of His Majesty's colonies, garrisons, or dominions in Europe or elsewhere, respectively upon complaint made, in like manner as if such witness after having been duly summoned and subpoenaed had neglected to attend on a trial in any proceeding in the court in which such complaint is made, or had refused to be sworn, or on being sworn had refused to give evidence, or to answer all such questions as the court may legally demand, or had prevaricated in giving evidence, or, if the court-martial shall think fit, in case any such person, who is subject to this Act, being called upon to give evidence at any court-martial, shall refuse or neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate in his evidence, or behave with contempt to the court, such court-martial may punish every such offender by imprisonment, or, if the offender is a person liable to be sentenced to detention under this Act, by detention not longer than three months in case of such refusal, neglect, or prevarication, nor longer than one month in the case of such contempt; and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the [1][Central Government], or of the president of the court-martial on a foreign station.

Penalty on persons giving false evidence.

67. Every person who, upon any examination upon oath or upon affirmation before any court-martial held in pursuance of this Act, shall make any statement which is false and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have committed the offence of giving false evidence, and every such offence, wheresoever committed, shall be triable and punishable in British India.

Where persons are insane at the time of offence or trial.

68. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the [1][Central Government] thereupon are known, and it

[1] Subs. by the A. O. for "G. G. in C."

shall be lawful for the [1][Central Government] to give orders for the safe custody of such person during His Majesty's pleasure in such place and in such manner as [2][it] shall think fit.

Report of proceedings of courts-martial to be transmitted.

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every court-martial attended by him, to the Officer Commanding the Indian Navy or senior officer, who shall transmit them to the [1][Central Government] for the time being; and any person tried by a court-martial shall be entitled, on demand, to a copy of such proceedings and sentence (upon payment for the same at the rate of three annas per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court.

Evidence of rank, etc., of officers.

69A. A Navy List or Gazette purporting to be published by authority and either to be printed by a Government printer or to be issued by His Majesty's Stationery Office, shall be evidence of the status and rank of the officers therein mentioned and of any appointment held by such officers until the contrary is proved.

PART V.

Penal Servitude and Prisons.

Penal Servitude.

Sentence of penal servitude.

70. Where a person is in pursuance of this Act convicted by a court-martial, and either is sentenced or has his sentence commuted to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted by a civil court in British India of an offence punishable by penal servitude and sentenced by that court to penal servitude, and all enactments relating to a convict so sentenced shall, so far as circumstances admit, apply accordingly; and the said convict shall be removed to some prison in which a convict so sentenced by a civil court in British India can be confined either permanently or temporarily, and the order of the [1][Central Government] or of the Officer Commanding the Indian Navy, or of the officer ordering the court-martial by whom such person was convicted, shall be a sufficient warrant for the transfer of the said person to such prison to undergo his sentence according to law, and until he reaches such prison for detaining him in naval custody, or in any civil prison or place of confinement.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs by the A. O. for "they".

72. In case any such offender shall be conveyed to any prison, not being a naval prison appointed by virtue of this Act, an allowance such as the [1][Central Government] shall from time to time direct shall be made to the governor, keeper, or superintendent of the gaol or prison for the subsistence of such offender while he is detained therein, and such allowance shall be paid by order of the [1][Central Government] upon production by the said governor, keeper, or superintendent of a declaration, to be made by him before a Magistrate, of the number of days during which the offender has been so detained and subsisted in such gaol or prison. Subsistence of offender.

73. Whenever sentence shall be passed by a court-martial on an offender already under sentence either of detention, imprisonment, or penal servitude, passed upon him under this Act for a former offence, the court may award sentence of detention, imprisonment, or penal servitude for the offence for which he is under trial to commence at the expiration of the detention, imprisonment, or penal servitude to which he has been previously sentenced, although the aggregate of the terms of detention, imprisonment, or penal servitude may exceed the term for which any of those punishments could be otherwise awarded : Imprisonment of offender already under sentence for previous offence.

Provided that nothing in this section shall cause a person to undergo imprisonment or detention for any period exceeding in the aggregate two consecutive years, and so much of any term of imprisonment or detention imposed on a person by a sentence in pursuance of this section as would prolong the total term of his punishment beyond that period shall be deemed to be remitted.

Prisons.

74. (*1*) Every term of penal servitude, imprisonment, or detention in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded, and the place of imprisonment or detention, whether the imprisonment or detention was awarded as an original or as a commuted punishment, shall be such place as may be appointed by the court or the commanding officer awarding the punishment, or which may from time to time be appointed by the [1][Central Government], and may, in the case of imprisonment, be one of the naval prisons appointed under this Act, or naval detention quarters, or any common gaol, house of correction, or military prison or detention barrack, and may in the case of detention be any naval detention quarters or a military detention barrack within His Majesty's dominions. Term and place of imprisonment.

(*2*) Where, by reason of a ship being at sea or of a place at which there is no proper prison, or naval detention quarters, a sentence of imprisonment, or detention, as the case may be, cannot be duly executed, then, subject as hereinafter mentioned, an offender under sentence of imprisonment or detention, as the case may be, may be sent with all reasonable speed to some place at which there is a proper prison or naval detention quarters, or, in the case

[1] Subs. by the A. O. for "G. G. in C."

shall be lawful for the [1][Central Government] to give orders for the safe custody of such person during His Majesty's pleasure in such place and in such manner as [2][it] shall think fit.

Report of proceedings of courts-martial to be transmitted.

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every court-martial attended by him, to the Officer Commanding the Indian Navy or senior officer, who shall transmit them to the [1][Central Government] for the time being; and any person tried by a court-martial shall be entitled, on demand, to a copy of such proceedings and sentence (upon payment for the same at the rate of three annas per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court.

Evidence of rank, etc., of officers.

69A. A Navy List or Gazette purporting to be published by authority and either to be printed by a Government printer or to be issued by His Majesty's Stationery Office, shall be evidence of the status and rank of the officers therein mentioned and of any appointment held by such officers until the contrary is proved.

PART V.

Penal Servitude and Prisons.

Penal Servitude.

Sentence of penal servitude.

70. Where a person is in pursuance of this Act convicted by a court-martial, and either is sentenced or has his sentence commuted to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted by a civil court in British India of an offence punishable by penal servitude and sentenced by that court to penal servitude, and all enactments relating to a convict so sentenced shall, so far as circumstances admit, apply accordingly; and the said convict shall be removed to some prison in which a convict so sentenced by a civil court in British India can be confined either permanently or temporarily, and the order of the [1][Central Government] or of the Officer Commanding the Indian Navy, or of the officer ordering the court-martial by whom such person was convicted, shall be a sufficient warrant for the transfer of the said person to such prison to undergo his sentence according to law, and until he reaches such prison for detaining him in naval custody, or in any civil prison or place of confinement.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "they".

72. In case any such offender shall be conveyed to any prison, not being a naval prison appointed by virtue of this Act, an allowance such as the [1][Central Government] shall from time to time direct shall be made to the governor, keeper, or superintendent of the gaol or prison for the subsistence of such offender while he is detained therein, and such allowance shall be paid by order of the [1][Central Government] upon production by the said governor, keeper, or superintendent of a declaration, to be made by him before a Magistrate, of the number of days during which the offender has been so detained and subsisted in such gaol or prison. Subsistence of offender.

73. Whenever sentence shall be passed by a court-martial on an offender already under sentence either of detention, imprisonment, or penal servitude, passed upon him under this Act for a former offence, the court may award sentence of detention, imprisonment, or penal servitude for the offence for which he is under trial to commence at the expiration of the detention, imprisonment, or penal servitude to which he has been previously sentenced, although the aggregate of the terms of detention, imprisonment, or penal servitude may exceed the term for which any of those punishments could be otherwise awarded : Imprisonment of offender already under sentence for previous offence.

Provided that nothing in this section shall cause a person to undergo imprisonment or detention for any period exceeding in the aggregate two consecutive years, and so much of any term of imprisonment or detention imposed on a person by a sentence in pursuance of this section as would prolong the total term of his punishment beyond that period shall be deemed to be remitted.

Prisons.

74. (*1*) Every term of penal servitude, imprisonment, or detention in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded, and the place of imprisonment or detention, whether the imprisonment or detention was awarded as an original or as a commuted punishment, shall be such place as may be appointed by the court or the commanding officer awarding the punishment, or which may from time to time be appointed by the [1][Central Government], and may, in the case of imprisonment, be one of the naval prisons appointed under this Act, or naval detention quarters, or any common gaol, house of correction, or military prison or detention barrack, and may in the case of detention be any naval detention quarters or a military detention barrack within His Majesty's dominions. Term and place of imprisonment.

(*2*) Where, by reason of a ship being at sea or of a place at which there is no proper prison, or naval detention quarters, a sentence of imprisonment, or detention, as the case may be, cannot be duly executed, then, subject as hereinafter mentioned, an offender under sentence of imprisonment or detention, as the case may be, may be sent with all reasonable speed to some place at which there is a proper prison or naval detention quarters, or, in the case

[1] Subs. by the A. O. for "G. G. in C."

of an offender under sentence of detention, to some place at which there are naval detention quarters, in which the sentence can be duly executed, and on arrival there the offender shall undergo his sentence, in like manner as if the date of such arrival were the day on which the sentence was awarded, and that notwithstanding that in the meanwhile he has returned to his duty or become entitled to his discharge; and the term of imprisonment or detention, as the case may be, shall be reckoned accordingly, subject however to the deduction of any time during which he has been kept in confinement in respect of the said sentence.

(3) Where in pursuance of this Act a person is sentenced to imprisonment or detention the order of the [1][Central Government] or of the Officer Commanding the Indian Navy, or of the officer ordering the court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment or detention, there to undergo his sentence according to law, and until he reaches such place of imprisonment or detention for detaining him in naval custody, or in the case of a person sentenced to imprisonment in any civil prison or place of confinement.

Power to suspend sentences.

74A. Where a person has been sentenced to penal servitude or imprisonment or detention the [1][Central Government] or officer who by virtue of sub-section (3) of section seventy-four of this Act has power to issue an order of committal (hereinafter in this section referred to as "the committing authority") may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

(a) Notwithstanding anything in this Act, the term of the sentence shall not be reckoned as commencing until an order of committal is issued;

(b) The case may at any time, and shall at intervals of not more than three months, be reconsidered by the [1][Central Government] or committing authority, or an officer holding such command as the [1][Central Government] may by regulation prescribe, and, if on any such reconsideration it appears to the [1][Central Government] or committing authority or officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence the [1][Central Government] or committing authority or officer shall remit the whole or any part of it;

(c) Subject to regulations made by the [1][Central Government] the [1][Central Government] or committing authority, or an officer holding such command as the [1][Central Government] may by regulation prescribe, may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended;

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[1] Subs. by the A. O. for "G. G. in C."

(*d*) Where a person subject to this Act, whilst a sentence on him is so suspended, is sentenced to penal servitude or imprisonment or detention for any other offence then, if he is at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo imprisonment or detention for a period exceeding the aggregate of two consecutive years, and where the sentence for such other offence is a sentence of penal servitude, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided.

When a person has been sentenced to penal servitude or imprisonment or detention and an order of committal has been issued, the [1][Central Government] or the committing authority, or an officer holding such command as the [1][Central Government] may by regulation prescribe, may order the sentence to be suspended, and in such case the person whose sentence is suspended shall be discharged and the currency of the sentence shall be suspended until he is again committed under the same sentence, and the foregoing paragraphs (*b*), (*c*) and (*d*) of this section shall apply in like manner as in the case where a sentence has been suspended before an order of committal has been issued.

Where a sentence is suspended under this section, whether before or after committal, the [1][Central Government] or, subject to any regulation or direction which may be issued by the [1][Central Government], the committing authority or officer by whom the sentence is suspended may, notwithstanding anything in section fifty-three of this Act, direct that any penalty which is involved by the punishment of penal servitude or imprisonment or detention either shall be or shall not be remitted or suspended

Place of imprisonment may be changed, etc.

75. Whenever it is deemed expedient it shall be lawful for the [1][Central Government], the Officer Commanding the Indian Navy, or senior naval officer present by any order in writing from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act or of any offender undergoing or sentenced to undergo detention, and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction, or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison or naval detention quarters ; and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction or naval detention quarters shall, upon being

[1]Subs by the A. O. for "G G. in C."

furnished with a copy of such order of removal, attested by a Secretary to the [1][Central Government] for the time being, receive into his custody and shall confine pursuant to such sentence or order every such offender.

Expenses of removal or subsistence of prisoners.

76. The gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding twelve annas a mile, and when any offender is not confined in a naval prison or naval detention quarters the gaoler or other person in whose custody any such offender may be shall receive such an allowance as the [2][Central Government] shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence and such sum shall be paid to the said gaoler or other person under the authority of the [2][Central Government], upon the application in writing made to the [2][Central Government] by the District Magistrate or Presidency Magistrate within whose jurisdiction such gaol, prison, or house of correction shall be situate, with a copy of the sentence or order under which the offender is confined.

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Proviso for discharge or removal of prisoners.

78. Whenever any offender is undergoing imprisonment or detention in pursuance of this Act, it shall be lawful for the [2][Central Government] or where an offender is undergoing imprisonment or detention by order of his commanding officer, for such commanding officer or the [2][Central Government] to give an order in writing directing that the offender be discharged; and it shall also be lawful for the [2][Central Government], and any officer commanding any of His Majesty's ships, by order in writing, to direct that any such offender be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness, or for trial or otherwise, and such offender shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

Proviso as to time of detention in naval custody.

79. The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned as imprisonment or detention under his sentence for whatever purpose he is so detained; and the governor, gaoler, keeper, or superintendent who shall deliver over any such offender shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

In case of insanity prisoners to be removed to some lunatic asylum.

80. If any person imprisoned or undergoing detention by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the [2][Central Government] shall, by warrant, direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in British India as [3][it] may judge proper for the unexpired term of his imprisonment or detention; and if any such person shall in the same manner be certified to be again of sound mind, the [2][Central Government] may issue a warrant for his being removed to such prison or place of confinement or in the case of a person sentenced to detention, such

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[1] Subs. by the A. O. for "G. of I."
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "he".

naval detention quarters as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly. This section shall not apply to persons imprisoned in England.

Central Government may set apart buildings and ships as naval prisons.

81. (*1*) The [1][Central Government] may set apart any buildings or vessels, or any parts thereof, as naval prisons or naval detention quarters, and any buildings or vessels, or parts of buildings or vessels, so set apart as naval prisons or naval detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters respectively within the meaning of this Act.

(*2*) The [1][Central Government] shall have the same power and authority in respect to naval prisons and naval detention quarters respectively as one of His Majesty's Principal Secretaries of State has in relation to military prisons and detention barracks respectively under section one hundred and thirty-three of the Army Act, 1881, and that section shall apply as if it were herein re-enacted with the substitution of "the [1][Central Government]" for "a Secretary of State", and of "naval" for "military", and of "naval detention quarters" for "detention barrack", and rules and regulations may be made accordingly by the [1][Central Government].

44 & 45 Vict., 58.

Penalties on aiding escape or attempt to escape of prisoners and on breach of prison regulations.

82. If any person shall convey or cause to be conveyed into any such naval prison or any such naval detention quarters any arms, tools, or instruments, or any mask or other disguise to facilitate the escape of any prisoner or person undergoing detention or by any means whatever shall aid any prisoner or person undergoing detention to escape or in an attempt to escape from such prison or naval detention quarters, whether an escape be actually made or not, such person shall be punished with imprisonment, which may be either rigorous or simple, for any term not exceeding two years, or suffer penal servitude for any term not exceeding fourteen years; and if any person shall bring or attempt to bring into such prison or naval detention quarters, in contravention of the rules, any spirituous or fermented liquor, he shall for every such offence be liable to a penalty not exceeding two hundred rupees and not less than one hundred rupees; and if any person shall bring into such prison or naval detention quarters or to or for any prisoner or person undergoing detention, without the knowledge of the officer having charge or command thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by the rules of the prison or naval detention quarters, to be in the possession of a prisoner or person undergoing detention, or shall throw into the said prison or naval detention quarters any such articles, or by desire of any prisoner or person undergoing detention, without the sanction of the said officer, shall carry out of the prison or naval detention quarters any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding fifty rupees; and if any person shall interrupt any officer of such prison or naval detention quarters in the execution of his duty, or shall aid or excite any person to assault, resist, or

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[1] Subs. by the A. O. for "G. G. in C."

interrupt any such officer, he shall for every such offence be liable to a penalty not exceeding fifty rupees, or if the offender be a prisoner or person undergoing detention, he shall be punished with imprisonment, which may be either rigorous or simple, for any time not exceeding six calendar months, in addition to so much of the time for which he was originally sentenced as may be then unexpired, and every such penalty shall be applied as the [1][Central Government] shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

Penalty as regards gaolers, etc.

83. Every governor, gaoler, and keeper of any prison, gaol, or house of correction or of any naval detention quarters, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall, without lawful excuse, refuse or neglect to receive or confine, remove, discharge, or deliver up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one thousand rupees and every such penalty shall be applied as the [1][Central Government] shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

PART VI.

Supplemental Provisions.

Short title.

84. This Act may be cited for all purposes as the Naval Discipline Act.

Extent and repeal.

85. Except as otherwise provided, this Act shall be in force within the United Kingdom; and as regards the United Kingdom the enactments described in the schedule to this Act shall be repealed from and after one calendar month from the passing hereof; and as regards elsewhere this Act shall be in force, and the said enactments shall be repealed, from and after six calendar months from the passing hereof.

Definition of terms.

86. In the construction of this Act, unless there be something in the context or subject matter repugnant to or inconsistent with such construction,

"Admiralty", or "the Lords of the Admiralty", shall mean the Lord High Admiral for the time being of the United Kingdom of Great Britain and Ireland, and when there shall be no such Lord High Admiral in office, any two or more of the Commissioners for executing the office of Lord High Admiral of the United Kingdom;

"Officer" shall mean an officer belonging to one of His Majesty's ships, and shall include a subordinate and a warrant officer, other than a warrant officer, Class II, of the Royal Marines, and shall include also a person holding any such position in the Indian Naval Volunteer Reserve during and in respect of the time when he is serving in the Indian Navy, but shall not extend to petty and non-commissioned officers;

When the words "superior officer" are used in this Act they shall be held to include all officers, warrant officers, petty and non-commissioned officers.

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[1] Subs. by the A. O. for "G. G. in C."

87. Every person in or belonging to His Majesty's Navy, and borne on the books of any one of His Majesty's ships in commission and every member of the Indian Naval Volunteer Reserve during and in respect of the time when he is serving in the Indian Navy, whether for training or exercise or having been called up for any duty or service for which as a member of such Reserve he is liable, shall be subject to this Act, and all other persons hereby or by any other Act made liable thereto shall be triable and punishable under the provisions of this Act.

Person subject to this Act.

88. His Majesty's land and air forces, when embarked on board any of His Majesty's ships, shall be subject to the provisions of this Act to such extent and under such regulations as His Majesty, His heirs and successors, by any Order or Orders in Council, shall at any time or times direct.

Land and air forces embarked as passengers.

89. All other persons ordered to be received or being passengers on board any of His Majesty's ships shall be deemed to be persons subject to this Act, under such regulations as the [1][Central Government] may from time to time direct.

Other persons embarked as passengers.

90. With respect to vessels in His Majesty's service in time of war, whether belonging to His Majesty or not, which are not wholly manned by naval ratings, but being either armed or under the command of an officer in His Majesty's naval service, the following provisions shall take effect if in any case the [1][Central Government] thinks fit so to direct, and where such direction is given the same shall be specified in the ship's articles :—

Provisions respecting discipline in ships in His Majesty's service in war.

(1) Every person borne on the books of any such vessel shall be subject to this Act :

(2) Any offence committed by any such person shall be tried and punished as the like offence might be tried and punished if committed by any person in or belonging to His Majesty's Navy and borne on the books of any of His Majesty's ships in commission :

(3) Every such offender who is to be tried by court-martial shall be placed under all necessary restraint until he can be tried by court-martial :

(4) On application made to the [1][Central Government], or to the Officer Commanding the Indian Navy or senior officer of any of His Majesty's ships or vessels of war abroad authorised to assemble and hold courts-martial, the [1][Central Government], Officer Commanding the Indian Navy, or senior officer (as the case may be) shall assemble and hold a court-martial for the trial of the offender

(5) The officer commanding every such vessel shall have the same power in respect of all other persons borne on the books thereof, or for the time being on board the same, as the officer commanding one of His Majesty's ships has for the time being in respect of the officers and crew thereof or other persons on board

[1] Subs by the A. O. for " G. G. in C."

the same: Provided that in the absence of the officer commanding such vessel, the officer commanding the ship or vessel or station in which such person may for the time being be held in custody shall have such power as aforesaid:

(6) The Officer Commanding the Indian Navy and senior naval officer in His Majesty's service shall have the same powers over the officers and crew of every such vessel as they have for the time being over the officers and crew of any of His Majesty's ships.

Relations between military, naval, and air forces acting together.

90A. *(1)* Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of His Majesty's military forces acting with, or is attached to, any body of His Majesty's naval forces under such conditions as may be prescribed by regulations made by the Admiralty and Army Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of His Majesty's naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

(1A) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of His Majesty's air force acting with any body of His Majesty's naval forces under such conditions as may be prescribed by regulations made by the Admiralty and Air Council, and such officer or non-commissioned officer is not borne on the books of any of His Majesty's ships in commission, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of His Majesty's naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be

(2) Where any naval officer or seaman is a member of a body of His Majesty's naval forces acting with or is attached to any body of His Majesty's military forces under such conditions as may be prescribed by regulations made by the Admiralty and Army Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such military body shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(2A) Where any naval officer or seaman is a member of a body of His Majesty's naval forces acting with any body of His Majesty's air force under such conditions as may be prescribed by regulations made by the Admiralty and Air Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such body of the air force shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(3) The relative rank of naval and military and air force officers, petty officers, and non-commissioned officers shall, for the purposes of this section, be such as is provided by the King's Regulations and Admiralty Instructions for the time being in force.

90B. (1) Any person in or belonging to His Majesty's Navy and any officer or man of the Royal Marines who, by order of the Admiralty or of the Commander-in-Chief or the Senior Naval Officer present on a foreign station, is serving in a ship of or belonging to the naval forces of a self-governing Dominion or of India (provided such ship is not at the time placed at the disposal of the Admiralty), or in a naval establishment of a self-governing Dominion or of India or who is on board such ship or in such establishment as aforesaid awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of such self-governing Dominion or of India

Provisions respecting naval officers and seamen in ships of self-governing Dominions.

(2) For the purposes of this section, the expression "self-governing Dominion" includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

90C. (1) Any person in or belonging to the Indian Navy, who, by order of the [1][Central Government], is serving in a ship belonging to His Majesty's Navy or to the naval forces of a self-governing Dominion or in a naval establishment of His Majesty's Navy or a self-governing Dominion, or who is on board any such ship or in any such establishment awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the Royal Navy or the ships and naval forces of the self-governing Dominion, as the case may be.

Persons serving in a ship of the Royal or Dominion Navy to be subject to the laws and customs thereof.

(2) For the purposes of this section, the expression "self-governing Dominion" includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

91. When any one of His Majesty's ships shall be wrecked or lost or destroyed, or taken by the enemy, such ship shall, for the purposes of this Act, be deemed to remain in commission until her crew shall be regularly removed into some other of His Majesty's ships of war, or until a court-martial shall have been held, pursuant to the custom of the navy in such cases, to inquire into the cause of the wreck, loss, destruction, or capture of the said ship.

Crews of ships lost or destroyed.

92. When no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction, or capture, it shall be lawful to try all the officers and crew, or all the surviving officers and crew of any such ship, together, before one and the same court, and to call upon all or any of them when upon their trial to give evidence on oath or affirmation before the court touching any of the

All the officers and crew of lost ship may be tried by one court;

[1] Subs. by the A. O. for "G. G. in C."

matters then under inquiry, but no officer or seaman or other person shall be obliged to give any evidence which may tend to criminate himself.

or by separate courts

93. When deemed necessary by the [1][Central Government] or any officer authorised to order courts-martial, separate courts-martial shall be held for the trial of some one or more of such officers and crew for or in respect or in consequence of the wreck, loss, destruction, or capture of any such ship.

For subsequent offence, separate court.

94. For any offence or offences committed by any officer or seaman, or officers and seamen, after the wreck, loss, destruction, or capture of any such ship, a separate court-martial shall be held for the trial of such offender or offenders.

Pay of crews of ships lost or taken.

95. When any ship of His Majesty shall be wrecked, lost, or otherwise destroyed, or taken by the enemy, if it shall appear by the sentence of a court-martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well, and been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other ships of His Majesty, or dying.

When ship of senior officer is lost he may dispose of officers and crew of lost ship.

96. If the ship of any officer ordered to command any two or more of His Majesty's ships shall be wrecked, lost or otherwise destroyed, such officer shall continue in the command of any ship or ships which at the time of his ship being wrecked, lost, or destroyed was or were under his command, and it shall be lawful for such officer to order the surviving officers and crew of the wrecked, lost, or destroyed ship to join any other ship under his command, or to distribute them among the other ships under his command, if more than one, and such officer shall, until he meets with some other officer senior to himself, have the same power and authority in all respects as if his ship had not been wrecked, lost, or destroyed.

Restriction on arrest of seamen, etc., for debt.

97. It shall not be lawful for any person to arrest any petty officer or seaman, non-commissioned officer of marines or marine, belonging to any ship of His Majesty, by any warrant, process, or writ issued in any part of His Majesty's dominions for any debt, unless the debt was contracted at a time when the debtor did not belong to His Majesty's service, nor unless before the issuing of the warrant, process, or writ, the plaintiff in the suit or some person on his behalf has made an affidavit in the court out of which it is issued, that the debt justly due to the plaintiff (over and above all costs) was contracted at a time when the debtor did not belong to His Majesty's service, nor unless a memorandum of such affidavit is marked on the back of the warrant, process, or writ.

Discharge from arrest.

98. If any petty officer or seaman, non-commissioned officer of marines or marine, is arrested in contravention of the provisions of the last foregoing section, the court out of which the warrant, process, or writ issues, or any judge thereof, may, on complaint by the party arrested, or by his superior

[1] Subs. by the A. O. for "G. G. in C."

officer, investigate the case on oath or otherwise, and if satisfied that the arrest was made in contravention of the provisions of the last foregoing section, may make an order for the immediate discharge of the party arrested, without fee, and may award to the complainant the costs of his complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy as the plaintiff in the suit would have on judgment being given in his favour, with costs.

Liability of seamen, etc., for maintenance of wives and children.

98A. (*1*) A person subject to this Act shall be liable to contribute to the maintenance of his wife and of his children, legitimate or illegitimate, to the same extent as if he were not so subject, but execution in respect of any such liability or of any decree or order in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, or clothing.

(2) Where—

(*a*) it appears to the satisfaction of the [1][Central Government] or any person deputed by [2][it] for the purpose that a person subject to this Act has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age, or

(*b*) any decree or order is made under any law for payment by a man who is or subsequently becomes subject to this Act either of the cost of the maintenance of his wife or child, or of the cost of any relief given to his wife or child by way of loan, and a copy of such decree or order is sent to the [1][Central Government] or any person deputed by [2][it] for the purpose,

the [1][Central Government] or the person so deputed may direct to be deducted from the pay of the person so subject to this Act, and to be appropriated towards the maintenance of his wife or children, or in liquidation of the sum adjudged to be paid by such decree or order, as the case may be, in such manner as the [1][Central Government] or the person so deputed may think fit, a portion of such pay, at [3][its or his] discretion, but the amount deducted shall not exceed the amount fixed by the decree or order (if any), and shall not be a higher rate than the rates fixed by rules made in this behalf by the [1][Central Government]:

Provided that no such deductions from pay in liquidation of a sum adjudged to be paid by a decree or order as aforesaid shall be ordered unless the [1][Central Government], or the person deputed by [2][it] is satisfied that the person against whom the decree or order was made has had a reasonable opportunity of appearing himself or has appeared by a duly authorised legal representative, to defend the case before the court by which the decree or order was made, and a certificate, purporting to be a certificate of the commanding officer of the ship on which he was or is serving, or on the books of which

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "him".
[3] Subs. by the A. O. for "his".

he was or is borne, that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved.

Where any arrears have accumulated in respect of sums adjudged to be paid by any such decree or order as aforesaid whilst the person against whom the decree or order was made was serving under this Act, whether or not deductions in respect thereof have been made from his pay under this section, then after he has ceased so to serve an order of committal shall not be made in respect of those arrears unless the court is satisfied that he is able, or has, since he has ceased so to serve, been able to pay the arrears or any part thereof and has failed to do so.

(3) Where a proceeding under any law is instituted against a person subject to this Act for the purpose of enforcing against him any such liability as above in this section mentioned, the process may be served on the commanding officer of the ship on which he is serving or on the books of which such person is borne, or where, by reason of the ship being at sea or otherwise, it is impracticable to serve the process on such commanding officer, the process may, after not less than three weeks' notice to the [1][Central Government], be served by being sent to a Secretary to the [2][Central Government] for transmission to such commanding officer, but such service shall not be valid unless there is left therewith in the hands of such commanding officer or [1][Central Government] such sum of money, if any (to be adjudged as costs incurred in obtaining the decree or order if made against the person on whom the process is issued), as may be fixed by the [1][Central Government] as being necessary to enable him to attend the hearing of the case and to return to his ship or quarters, and such sum may be expended by the commanding officer for that purpose, and no process whatever under any law in any proceeding in this section mentioned shall be valid against a person subject to this Act if served after such person is under orders for service on a foreign station.

The production of a certificate of the receipt of the process purporting to be signed by such commanding officer as aforesaid shall be evidence that the process has been duly served unless the contrary is proved.

Where, by a decree or order sent to the [1][Central Government] or officer in accordance with sub-section (2) of this section, the person against whom the decree or order is made is adjudged to pay as costs incurred in obtaining the decree or order any sum so left with the process as aforesaid, the [1][Central Government] may cause a sum equal to the sum so left to be paid in liquidation of the sum so adjudged to be paid as costs, and the amount so paid by the [1][Central Government] shall be a public debt from the person against whom the decree or order was made, and, without prejudice to any other method of recovery, may be recovered by reduction from his pay, in addition to those mentioned in sub-section (2) of this section.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "G. of I."

(*4*) This section shall not apply to persons subject to this Act where such persons are officers.

(*5*) In this section the expression "pay" includes all sums payable to a man in respect of his services other than allowances in lieu of lodgings, rations, provisions, and clothing.

PART VII.

SAVING CLAUSE.

* * * * * * * *

100. Nothing in this Act shall take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of His Majesty the King in right of His Crown, or in right of His Office of Admiralty or any right or power of the Admiralty.

Nothing to take away prerogative of the Crown, or rights or powers of Admiralty.

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in His Majesty's dominions, in respect of any offence mentioned in this Act which may be punishable or cognisable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act.

Act not to supersede authority of ordinary courts.

PART VIII.

PRINTING CLAUSE

102. (*1*) Every enactment and word which is directed by any act amending this Act to be substituted for or added to any portion of this Act shall form part of this Act in the place assigned to it by the amending Act, and this Act and all Acts which refer thereto shall, after the commencement of the amending Act, be construed as if that enactment or word had been originally enacted in this Act in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and as if this Act had been enacted with the omission of any enactment or word which is directed by the amending Act to be repealed or omitted from this Act, and the expression "this Act" shall be construed accordingly.

Printing and construction of Naval Discipline Act.

(*2*) A copy of this Act with every such enactment and word inserted in the place so assigned, and with the omission of any portion of this Act directed by any such amending Act as aforesaid to be repealed or omitted from this Act, shall be prepared and certified by the Clerk of the Parliament and deposited with the rolls of Parliament, and His Majesty's printers shall print in accordance with the copy so certified all copies of this Act which are printed after the commencement of such amending Act.

(3) A reference in any enactment, Order in Council, or other document, to the Naval Discipline Act shall, unless the context otherwise requires, be construed as a reference to this Act as amended by any enactment for the time being in force.

THE SCHEDULE.

Enactments repealed.

11 Geo 4 & 1 Will. 4, c 20, in part.	An Act to amend and consolidate the laws relating to the pay of the Royal navy.	in part; namely :—
	Section eighty.	
10 & 11 Vict, c. 62, in part	An Act for the establishment of naval prisons, and for the prevention of desertion from Her Majesty's navy.	in part; namely :—
	Section eleven	
27 & 28 Vict, c., 119	The Naval Discipline Act, 1864.	
28 & 29 Vict, c 115	The Naval Discipline Act Amendment Act, 1865.	

THE SECOND SCHEDULE—[ENACTMENTS REPEALED.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE INDIAN FINANCE ACT, 1935.[1]

[*22nd April, 1935*]

An Act [2]* * * to fix rates of income-tax and super-tax [2]* * *.

WHEREAS it is expedient [2]* * * to fix rates of income-tax and super-tax [2]* * *; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Finance Act, 1935.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2 to 4. [*Fixation of salt duty. Amendments of the First and Second Schedules to Act XXXII of 1931. Inland postage rates.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

Income-tax and super-tax.

5. (*1*) Income-tax for the year beginning on the 1st day of April, 1935, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees falling under heading A in the said Part, by one-sixth of the amount of the rate.

[1] This Act was made by the Governor General under the provisions of s 67B of the Govt. of India Act. No number was given

For Statement of Objects and Reasons, *see* Gazette of India, 1935, Pt. V, p. 41.

[2] Certain words in the long title and preamble were rep. by the Repealing and Amending Act, 1937 (20 of 1937), s 3 and Sch. II.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1935, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-sixth of the amount of the rate

XI of 1922.

(3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

XI of 1922.

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule.

XI of 1922

(5) For the purpose of any assessment to be made for the year ending 31st March, 1936, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1935, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of section 48 in respect of dividends declared in the year ending 31st March, 1935, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

Explanation.—In this sub-section the term "previous year's rate" with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1935, on a total income equal to that on which he is assessable for the year ending 31st March, 1936.

6. [*Excise duty on silver.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

SCHEDULE I.—Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

SCHEDULE II.

[*See section 5.*]

PART I.

Rates of Income-tax.

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is Rs 1,000 or upwards, but is less than Rs. 1,500	One and one-third pies in rupee.

	Rate.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000	Two and two-thirds pies in the rupee.
(3) When the total income is Rs. 2,000 or upwards, but is less than Rs 5,000	Six pies in the rupee.
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs 10,000	Nine pies in the rupee.
(5) When the total income is Rs 10,000 or upwards, but is less than Rs. 15,000	One anna in the rupee.
(6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee.
(7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and eleven pies in the rupee.
(9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income	Two annas and two pies in the rupee.

PART II.

Rates of Super-tax.

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess	*Nil.*
(b) for every rupee of the remainder of such excess	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess	*Nil.*
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.

	Rate.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess	One anna and nine pies in the rupee
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee
(iii) for every rupee of the next fifty thousand rupees of such excess	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess . . .	Six annas and three pies in the rupee.

PART III.

Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.

1. The Income-tax Officer may, save where he has served a notice under sub-section (2)
XI of 1922. of section 22 of the Indian Income tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue, and such notice shall be deemed to be a notice of demand under section 29 of that Act

2. Any assessee in respect of whom such summary assessment has been made may, within [illegible]

[illegible]

1922.

4 The above procedure shall apply also to the assessment and collection during the financial year 1935-36 of income of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1934-35.

THE JUBBULPORE AND CHHATTISGARH DIVISIONS (DIVORCE PROCEEDINGS VALIDATION) ACT, 1935.

ACT NO. XIII OF 1935.[1]

[30th September, 1935.]

An Act to remove certain doubts and to validate certain proceedings of the High Court of Judicature at Allahabad.

WHEREAS it is expedient to remove certain doubts as to the jurisdiction of the Court of the Judicial Commissioner of the Central Provinces under the Indian Divorce Act after the 31st August, 1923; IV of 1869.

AND WHEREAS it is also expedient to validate certain proceedings taken by the High Court of Judicature at Allahabad under the said Act during the period from the 31st August, 1923, up to the commencement of this Act;

It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Jubbulpore and Chhattisgarh Divisions (Divorce Proceedings Validation) Act, 1935.

Declaration as to jurisdiction of Court of Judicial Commissioner of the Central Provinces. **2.** It is hereby declared, for the removal of doubts, that from the 31st August, 1923, the Court of the Judicial Commissioner of the Central Provinces alone has had and alone shall have the jurisdiction of a High Court under the Indian Divorce Act within the Jubbulpore and Chhattisgarh Divisions of the Central Provinces. IV of 1869.

Validation of proceedings of the High Court of Judicature at Allahabad. **3.** All proceedings taken, and all jurisdiction exercised, by the High Court of Judicature at Allahabad, during the period from the 31st August, 1923, up to the commencement of this Act, as a High Court under the Indian Divorce Act within the Jubbulpore and Chhattisgarh Divisions of the Central Provinces shall be deemed to be as good and valid in law as if such proceedings had been taken and jurisdiction exercised by the Court of the Judicial Commissioner of the Central Provinces. IV of 1869.

THE INDIAN COFFEE CESS ACT, 1935.

ACT NO. XIV OF 1935.[2]

[2nd November, 1935.]

An Act to provide for the creation of a fund for the promotion of the cultivation, manufacture and sale of Indian coffee.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the promotion of the cultivation, manufacture and sale of Indian coffee; It is hereby enacted as follows :—

Short title and extent. **1.** (*1*) This Act may be called the Indian Coffee Cess Act, 1935.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 100.
[2] For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 102.

(2) It extends to the whole of British India [1] * *.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "coffee cess" means the customs-duty imposed by section 3 and leviable under the Sea Customs Act, 1878, or under the Land Customs Act, 1924, as the case may be; (VIII of 1878. XIX of 1924.)

(2) "Collector" means a Customs-collector as defined in clause (c) of section 3 of the Sea Customs Act, 1878, or a Collector of Land Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924, as the case may be; and (VIII of 1878. XIX of 1924.)

(3) "Committee" means the Indian Coffee Cess Committee constituted under section 4.

Imposition of coffee cess. 3. A customs-duty shall be levied on all coffee produced in India and taken by sea or by land to any place beyond the limits of British India [2] * * at the rate of one rupee per hundredweight or at such lower rate as the [3][Central Government] may, on the recommendation of the Committee, by notification in the [4][Official Gazette], provide.

Constitution of Indian Coffee Cess Committee. 4. (1) The [3][Central Government] shall constitute a Committee consisting of the following members to receive and expend the proceeds of the coffee cess, namely:—

(i) five persons representing respectively the agricultural departments of the [5][Provincial Governments] of Madras and Coorg and of the Governments of the States of Mysore, Travancore and Cochin, [6][nominated, in the case of the States' Representatives, by the Government of the State concerned, and in the other cases, by the Central Government],

(ii) eleven persons representing the coffee growing industry, namely —

(a) three persons nominated by the Government of the Mysore State,

(b) two persons nominated by [7][the Central Government to represent] Madras and Coorg, respectively,

(c) three persons nominated by the United Planters' Association of Southern India; and

(d) three persons nominated by the Coffee Growers' Association;

(iii) three persons representing trade interests nominated by the [3][Central Government]; and

(iv) one person representing the Imperial Council of Agricultural Research nominated by the [3][Central Government].

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[1] The words "except Burma" rep. by the A. O.
[2] The words "or to Burma" rep. by the A. O.
[3] Subs. by the A. O. for "G. G. in C."
[4] Subs. by the A. O. for "Gazette of India".
[5] Subs. by the A. O. for "Local Governments".
[6] Subs. by the A. O. for "nominated, respectively, by those Governments".
[7] Subs. by the A. O. for "the Local Governments of".

(2) The [1][Central Government] shall publish in the [2][Official Gazette] the names of all members of the Committee.

Vacancies.

5. (1) If any authority or body fails to make within a reasonable time any nomination which it is entitled to make under section 4, the [1][Central Government] may [3][itself] nominate a member to fill the vacancy.

(2) Where a member of the Committee dies, resigns, ceases to reside in India or becomes incapable of acting, the [1][Central Government] may, on the recommendation of the authority or body which is entitled to make the first nomination under section 4, or, where such recommendation is not made within a reasonable time, then on [4][its] own initiative, nominate a person to fill the vacancy.

(3) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in, the constitution of the Committee.

Incorporation of the Committee.

6. The Committee so constituted shall be a body corporate by the name of the Indian Coffee Cess Committee, having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract and shall by the said name sue and be sued.

Chairman, sub-committees and executive officers.

7. The Committee shall elect a chairman from amongst its members, and may appoint such sub-committees and executive officers as may be necessary for the efficient performance of the duties imposed upon it by this Act.

Application of proceeds of coffee cess.

8. (1) On the last day of each month, or as soon thereafter as may be convenient, the Collector shall pay to the Committee the proceeds of the coffee cess recovered during that month, after deduction of the expenses, if any, for collection and recovery.

(2) The said proceeds and any other monies received by the Committee in this behalf shall be applied to meeting the expenses of the Committee and the cost of such measures as it may consider advisable to undertake for promoting the sale and increasing the consumption in India and elsewhere of coffee produced in India and also for promoting agricultural and technological research in the interest of the coffee industry in India.

Refund of and exemption from coffee cess.

9. The Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, may make rules[5] providing, on such conditions as may be specified in the rules, for— V of 1924.

(a) the refund of the coffee cess levied where coffee is exported by land and subsequently imported into India ; and

(b) the export by land, without payment of the coffee cess, of coffee which is subsequently to be imported into India.

Keeping and auditing of accounts.

10. (1) The Committee shall keep accounts of all monies received and expended under section 8.

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[1] Subs. by the A. O. for "G. G. in C."
[illegible]
[illegible]
[illegible]
[illegible]

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the [1][Central Government]; and such auditors shall have power to disallow any item which has, in their opinion, been expended otherwise than in pursuance of the purposes of this Act.

(3) If any item is disallowed, an appeal shall lie to the [1][Central Government], whose decision shall be final.

Dissolution of Committee.

11. The [1][Central Government] may, by notification in the [2][Official Gazette], declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty and this Act shall be deemed to have been repealed.

Rules.

12. (1) The [1][Central Government] may, after consulting the Committee, by notification in the [2][Official Gazette], make rules[3] to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office of the members of the Committee and the circumstances in which, and the authority by which, members may be removed ;

(b) the conduct of business by the Committee and the number of members which shall form a quorum at meetings ;

(c) the maintenance by the Committee of a record of all business transacted and the submission of copies thereof to the [1][Central Government] ;

(d) the preparation of annual estimates of receipts and expenditure ; and

(e) the form of accounts to be kept and the publication of an abstract of such accounts with the report of the auditor thereon.

Bye-laws.

13. The Committee may, with the previous sanction of the [1][Central Government], make bye-laws[4] consistent with this Act and with the rules made thereunder to provide for all or any of the following matters, namely :—

(a) the procedure to be followed at meetings of the Committee ;

(b) the travelling allowances of members of the Committee ;

(c) the appointment, promotion and dismissal of officers and servants of the Committee, and the creation and abolition of appointments of such officers and servants ,

(d) the grant of pay and leave to such officers and servants ; and

(e) any other matter in respect of which bye-laws may be made under this Act or rules made thereunder.

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[1] Subs by the A. O for "G. G. in C."

[2] Subs by the A. O for "Gazette of India".

[3] For the Indian Coffee Cess Rules made under this section, see Gazette of India, 1936, Pt. I, pp. 1292 and 1293.

[4] For the Indian Coffee Cess Act Bye-laws made under this section, see Gazette of India, 1936, Pt. I, pp. 1294 and 1295.

THE INDIAN FINANCE ACT, 1936.[1]

[*31st March, 1936.*]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax; It is hereby enacted as follows:— VI of 1898.

Short title and extent.

1. (*1*) This Act may be called the Indian Finance Act, 1936.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

2. [*Fixation of salt duty.*] *Spent.*

3. [*Inland Postage rates.*] *Spent.*

Income-tax and super-tax

4. (*1*) Income-tax for the year beginning on the 1st day of April, 1936, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case by one-twelfth of the amount of the rate.

(*2*) The rates of super-tax for the year beginning on the 1st day of April, 1936, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-twelfth of the amount of the rate. XI of 1922.

(*3*) For the purposes of the Second Schedule 'total income' means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. XI of 1922.

(*4*) For the purpose of any assessment to be made for the year ending 31st March, 1937, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1936, shall be the previous year's rate, and for the purposes of refunds under sub-section (*1*) or sub-section (*3*) of section 48 in respect of dividends declared in the year ending 31st March, 1936, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

Explanation.—In this sub-section the term 'previous year's rate' with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1936, on a total income equal to that on which he is assessable for the year ending 31st March, 1937.

SCHEDULE I.—Spent.

[1] This Act was made by the Governor General under the provisions of s. 67B of the Govt. of India Act. No number was given.

For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, pp. 16 and 17.

SCHEDULE II.

[See section 4.]

PART I.

Rates of Income-tax.

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000	Six pies in the rupee
(2) When the total income is Rs 5,000 or upwards, but is less than Rs 10,000	Nine pies in the rupee.
(3) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000	One anna in the rupee.
(4) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee
(5) When the total income is Rs 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs 40,000	One anna and eleven pies in the rupee
(7) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(8) When the total income is Rs. 1,00,000 or upwards	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income	Two annas and two pies in the rupee.

PART II.

Rates of Super-tax.

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess .	*Nil*
(b) for every rupee of the remainder of such excess	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess	*Nil.*
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.

	Rate.
(*b*) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(*i*) for every rupee of the first twenty thousand rupees of such excess	Nine pies in the rupee.
(*ii*) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.
(*c*) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(*i*) for every rupee of the next fifty thousand rupees of such excess	One anna and nine pies in the rupee.
(*ii*) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee.
(*iii*) for every rupee of the next fifty thousand rupees of such excess	Two annas and nine pies in the rupee.
(*iv*) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(*v*) for every rupee of the next fifty thousand rupees of such excess	Three annas and nine pies in the rupee.
(*vi*) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(*vii*) for every rupee of the next fifty thousand rupees of such excess	Four annas and nine pies in the rupee.
(*viii*) for every rupee of the next fifty thousand rupees of such excess	Five annas and three pies in the rupee.
(*ix*) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(*x*) for every rupee of the remainder of such excess . .	Six annas and three pies in the rupee.

THE PARSI MARRIAGE AND DIVORCE ACT, 1936.

CONTENTS.

I.—Preliminary.

Sections.

ACT NO. III OF 1936.[1]

[*23rd April, 1936*]

An Act to amend the law relating to marriage and divorce among Parsis.

WHEREAS it is expedient to amend the law relating to marriage and divorce among Parsis ; It is hereby enacted as follows :—

I.—PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Parsi Marriage and Divorce Act, 1936.

(*2*) It extends to the whole of British India and, in respect of Parsi subjects of His Majesty, to the whole of India :

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1934, Pt. V, p. 221 ; and for Report of Select Committee, *see ibid.*, 1935, Pt. V, pp. 108-109.

Provided that the [1][Central Government] may, in respect of territories in India beyond the limits of British India, by notification in the [2][Official Gazette], direct that the provisions of this Act relating to the constitution and powers of Parsi Matrimonial Courts and to appeals from the decisions and orders of such Courts shall apply with such modifications as may be specified in the notification.

(3) It shall come into force on such date[3] as the [1][Central Government] may, by notification in the [2][Official Gazette], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Chief Justice" includes senior Judge;

(*2*) "Court" means a Court constituted under this Act;

(*3*) to "desert", together with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent, or against the will, of such party,

(*4*) "grievous hurt" means—

(*a*) emasculation;

(*b*) permanent privation of the sight of either eye;

(*c*) permanent privation of the hearing of either ear;

(*d*) privation of any member or joint;

(*e*) destruction or permanent impairing of the powers of any member or joint;

(*f*) permanent disfiguration of the head or face, or

(*g*) any hurt which endangers life;

(*5*) "husband" means a Parsi husband;

(*6*) "marriage" means a marriage between Parsis whether contracted before or after the commencement of this Act,

(*7*) a "Parsi" means a Parsi Zoroastrian;

(*8*) "priest" means a Parsi priest and includes Dastur and Mobed; and

(*9*) "wife" means a Parsi wife.

II.—Marriages between Parsis.

Requisites to validity of Parsi marriages.

3. No marriage shall be valid if—

(*a*) the contracting parties are related to each other in any of the degrees of consanguinity or affinity set forth in Schedule I; or

(*b*) such marriage is not solemnized according to the Parsi form of ceremony called "Ashirvad" by a priest in the presence of two Parsi witnesses other than such priest, or

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[1] Subs. by the A O for "G G in C"
[2] Subs. by the A. O. for "Gazette of India".
[3] 22nd June, 1936: *see* Gazette of India, 1936, Pt. I, p. 621

(II.—Marriages between Parsis.)

(c) in the case of any Parsi (whether such Parsi has changed his or her religion or domicile or not) who has not completed the age of twenty-one years, the consent of his or her father or guardian has not been previously given to such marriage.

Remarriage when unlawful.

4. (*1*) No Parsi (whether such Parsi has changed his or her religion or domicile or not) shall contract any marriage under this Act or any other law in the lifetime of his or her wife or husband, whether a Parsi or not, except after his or her lawful divorce from such wife or husband or after his or her marriage with such wife or husband has lawfully been declared null and void or dissolved, and, if the marriage was contracted with such wife or husband under the Parsi Marriage and Divorce Act, 1865[1], or under this Act, except after a divorce, declaration or dissolution as aforesaid under either of the said Acts. XV of 186

(*2*) Every marriage contracted contrary to the provisions of sub-section (*1*) shall be void.

Punishment of bigamy.

5. Every Parsi who during the lifetime of his or her wife or husband, whether a Parsi or not, contracts a marriage without having been lawfully divorced from such wife or husband, or without his or her marriage with such wife or husband having legally been declared null and void or dissolved, shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife. XLV of 18

Certificate and registry of marriage.

6. Every marriage contracted under this Act shall, immediately on the solemnization thereof, be certified by the officiating priest in the form contained in Schedule II. The certificate shall be signed by the said priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said priest shall thereupon send such certificate together with a fee of two rupees to be paid by the husband to the Registrar of the [illegible] pt of the [illegible] him for [illegible]

Appointment of Registrar.

7. For the purposes of this Act a Registrar shall be appointed. Within the local limits of the ordinary original civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and without such limits, by the [2][Provincial Government]. Every Registrar so appointed may be removed by the Chief Justice or [2][Provincial Government] appointing him.

Marriage register to be open for public inspection.

8. The register of marriages mentioned in section 6 shall, at all reasonable times, be open for inspection, and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

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[1] Rep. by this Act.
[2] Subs. by the A. O. for "L. G."

(II.—Marriages between Parsis.)

9. Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall, at such intervals as the [1][Provincial Government] by which he was appointed from time to time directs, send to the Registrar-General of Births, Deaths and Marriages for the territories administered by such [1][Provincial Government] a true copy certified by him in such form as such [1][Provincial Government] from time to time prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.

Copy of certificate to be sent to Registrar-General of Births, Deaths and Marriages.

10. When a Court passes a decree for divorce, nullity or dissolution, the Court shall send a copy of the decree for registration to the Registrar of Marriages within its jurisdiction appointed under section 7; the Registrar shall enter the same in a register to be kept by him for the purpose, and the provisions of Part II applicable to the Registrars and registers of marriages shall be applicable, so far as may be, to the Registrars and registers of divorces and decrees of nullity and dissolution.

Registration of divorces.

11. Any priest knowingly and wilfully solemnizing any marriage contrary to and in violation of section 4 shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for solemnizing marriage contrary to section 4

12. Any priest neglecting to comply with any of the requisitions affecting him contained in section 6 shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both

Penalty for priest's neglect of requirements of section 6.

13. Every other person required by section 6 to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for omitting to subscribe and attest certificate.

14. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both; and if the act amounts to forgery as defined in the Indian Penal Code, then such person shall also be liable, on conviction thereof, to the penalties provided in section 466 of the said Code

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Penalty for making, etc., false certificate.

15. Any Registrar failing to enter the said certificate pursuant to section 6 shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for failing to register certificate.

16. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or if he be a Registrar, for a term which may extend to five years and shall also be liable to fine which may extend to five hundred rupees.

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Penalty for secreting, destroying or altering register.

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[1] *Subs. by the A. O. for "L. G."*

(II.—Marriage between Parsis. III.—Parsi Matrimonial Courts.)

Formal irregularity not to invalidate marriage

17. No marriage contracted under this Act shall be deemed to be invalid solely by reason of the fact that it was not certified under section 6, or that the certificate was not sent to the Registrar, or that the certificate was defective, irregular or incorrect.

III.—PARSI MATRIMONIAL COURTS.

Constitution of Special Courts under the Act.

18. For the purpose of hearing suits under this Act, a special Court shall be constituted in each of the Presidency-towns of Calcutta, Madras and Bombay, and in such other places in the territories of the several [1][Provincial Governments] as such Governments respectively shall think fit.

Parsi Chief Matrimonial Courts.

19. The Court so constituted in each of the Presidency-towns shall be entitled the Parsi Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsi Chief Matrimonial Court shall be conterminous with the local limits of the ordinary original civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven delegates.

Parsi District Matrimonial Courts

20. Every Court so constituted at a place other than a Presidency-town shall be entitled the Parsi District Matrimonial Court of such place. Subject to the provisions contained in section 21, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the district in which it is held. *The Judge of the principal Court of original civil jurisdiction at such* place shall be the Judge of such Matrimonial Court, and in the trial of cases under this Act he shall be aided by seven delegates.

Power to alter territorial jurisdiction of District Courts.

21. The [2][Provincial Government] may from time to time alter the local limits of the jurisdiction of any Parsi District Matrimonial Court, and may include within such limits any number of districts under its government.

Certain districts to be within jurisdiction of the Chief Matrimonial Court

22. Any district which the [2][Provincial Government], on account of the fewness of its Parsi inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsi Chief Matrimonial Court for the territories under such [2][Provincial Government] where there is such a Court.

Court seals.

23. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Appointment of delegates.

24. *(1)* The [1][Provincial Governments] shall, in the Presidency-towns and districts subject to their respective governments, respectively appoint persons to be delegates to aid in the adjudication of cases arising under this Act, after giving the local Parsis an opportunity of expressing their opinion in such manner as the respective Governments may think fit.

[1] Subs. by the A. O. for " Local Governments ".
[2] Subs. by the A. O. for " L. G."

(III.—Parsi Matrimonial Courts. IV.—Matrimonial Suits.)

(2) The persons so appointed shall be Parsis, their names shall be published in the [1][Official Gazette] and their number shall, within the local limits of the ordinary original civil jurisdiction of a High Court, be not more than thirty, and in districts beyond such limits, not more than twenty.

Power to appoint new delegates.

25. The appointment of a delegate shall be for ten years ; but he shall be eligible for reappointment for the like term or terms. Whenever a delegate shall die, or have completed his term of office, or be desirous of relinquishing his office or refuse or become incapable or unfit to act, or cease to be a Parsi,
XLV of 1860 or be convicted of an offence under the Indian Penal Code or other law for the time being in force, or be adjudged insolvent, then and so often the [2][Provincial Government] may appoint any person being a Parsi to be a delegate in his stead, and the name of the person so appointed shall be published in the [1][Official Gazette]

Delegates to be deemed public servants.

26. All delegates appointed under this Act shall be considered to be public
XLV of 1860. servants within the meaning of the Indian Penal Code.

... and 20 to be from those appointed under section 24.

27. The delegates selected under sect[illegible]
tion of suits under this Act, shall be tal[illegible]
Judge of the Court in due rotation from [illegible]
vincial Government] under section 24 :

Provided that each party to the suit may, without cause assigned, challenge any three of the delegates attending the Court before such delegates are selected and no delegate so challenged shall be selected.

Practitioners in Matrimonial Courts.

28. All legal practitioners entitled to practise in a High Court shall be entitled to practise in any Court constituted under this Act, and all legal practitioners entitled to practise in a District Court shall be entitled to practise in any Parsi District Matrimonial Court constituted under this Act.

Court in which suits to be brought.

29. (1) All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit.

(2) When the defendant shall at such time have left British India such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

(3) In any case, whether the defendant resides in British India or not, such suit may be brought in the Court at the place where the plaintiff resides or at the place where the plaintiff and the defendant last resided together, if such Court, after recording its reasons in writing, grants leave so to do.

IV.—Matrimonial Suits.

Suits for nullity.

30. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

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[1] Subs. by the A. O. for "local official Gazette".
[2] Subs. by the A. O. for "L. G."

(IV.—Matrimonial Suits.)

Suits for dissolution.

31. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would have naturally heard of him or her, had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

Grounds for divorce.

32. Any married person may sue for divorce on any one or more of the following grounds, namely :—

(*a*) that the marriage has not been consummated within one year after its solemnization owing to the wilful refusal of the defendant to consummate it ;

(*b*) that the defendant at the time of the marriage was of unsound mind and has been habitually so up to the date of the suit :

Provided that divorce shall not be granted on this ground, unless the plaintiff (1) was ignorant of the fact at the time of the marriage, and (2) has filed the suit within three years from the date of the marriage ;

(*c*) that the defendant was at the time of marriage pregnant by some person other than the plaintiff :

Provided that divorce shall not be granted on this ground, unless (1) the plaintiff was at the time of the marriage ignorant of the fact alleged, (2) the suit has been filed within two years of the date of marriage, and (3) marital intercourse has not taken place after the plaintiff came to know of the fact ;

(*d*) that the defendant has since the marriage committed adultery or fornication or bigamy or rape or an unnatural offence :

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years after the plaintiff came to know of the fact ;

(*e*) that the defendant has since the marriage voluntarily caused grievous hurt to the plaintiff or has infected the plaintiff with venereal disease or, where the defendant is the husband, has compelled the wife to submit herself to prostitution :

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years (*i*) after the infliction of the grievous hurt, or (*ii*) after the plaintiff came to know of the infection, or (*iii*) after the last act of compulsory prostitution ;

(*f*) that the defendant is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code : XLV of 1860

Provided that divorce shall not be granted on this ground, unless the defendant has prior to the filing of the suit undergone at least one year's imprisonment out of the said period ;

(*g*) that the defendant has deserted the plaintiff for at least three years ;

(*h*) that a decree or order for judicial separation has been passed against the defendant, or an order has been passed against the defendant by a Magistrate awarding separate maintenance to the plaintiff, and the parties have not had marital intercourse for three years or more since such decree or order ;

(IV.—Matrimonial Suits.)

(*i*) that the defendant has failed to comply with a decree for restitution of conjugal rights for a year or more ; and

(*j*) that the defendant has ceased to be a Parsi :

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years after the plaintiff came to know of the fact.

33. In every such suit for divorce on the ground of adultery, the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings. **Joining of co-defendant.**

34. Any married person may sue for judicial separation on any of the grounds for which such person could have filed a suit for divorce, or on the ground that the defendant has been guilty of such cruelty to him or her or their children, or has used such personal violence, or has behaved in such a way as to render it in the judgment of the Court improper to compel him or her to live with the defendant. **Suits for judicial separation.**

35. In any suit under section 30, 31, 32 or 34, whether defended or not, if the Court be satisfied that any of the grounds set forth in those sections for granting relief exist, that none of the grounds therein set forth for withholding relief exist and that— **Decrees in certain suits.**

(*a*) the act or omission set forth in the plaint has not been condoned ;

(*b*) the husband and wife are not colluding together ;

(*c*) the plaintiff has not connived at or been accessory to the said act or omission ;

(*d*) (save where a definite period of limitation is provided by this Act) there has been no unnecessary or improper delay in instituting the suit, and

(*e*) there is no other legal ground why relief should not be granted,

then and in such case, but not otherwise, the Court shall decree such relief accordingly.

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased may sue for the restitution of his or her conjugal rights and the Court, if satisfied of the truth of the allegations contained in the plaint, and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. **Suit for restitution of conjugal rights.**

(IV.—Matrimonial Suits.)

Counter-claim by defendant for any relief.

37. In any suit under this Act, the defendant may make a counter-claim for any relief he or she may be entitled to under this Act.

No suit to be brought to enforce marriage or contract arising out of marriage when husband is under sixteen years or wife under fourteen years.

38. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage or any contract connected with or arising out of any marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

Alimony *pendente lite.*

39. In any suit under this Act if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum not exceeding one-fifth of her husband's net income as the Court, considering the circumstances of the parties, shall think reasonable.

Permanent alimony.

40. *(1)* The Court may, if it shall think fit at the time of passing any decree under this Act or subsequently thereto on application made to it for the purpose, order that the husband shall,—

(*a*) to the satisfaction of the Court, secure to the wife while she remains chaste and unmarried such gross sum or such monthly or periodical payment of money for a term not exceeding her life as, having regard to her own property, if any, her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instruments shall have been duly executed, or

(*b*) make such monthly payments to the wife for her maintenance and support as the Court may think reasonable.

In case any such order shall not be obeyed by her husband it may be enforced in the manner provided for the execution of decrees and orders under the Code of Civil Procedure, 1908, and further the husband may be sued by any person supplying the wife with necessaries during the time of such disobedience for the price of such necessaries. V of 190

(*2*) The Court, if satisfied that there is a change in the circumstances of either party at any time, may at the instance of either party vary, modify or rescind such order in such manner as the Court may deem just.

(IV.—Matrimonial Suits.)

41. In all cases in which the Court shall make any decree or order for alimony it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do. Payment of alimony to wife or to her trustee.

42. In any suit under this Act the Court may make such provisions in the final decree as it may deem just and proper with respect to property presented at or about the time of marriage which may belong jointly to both the husband and wife. Disposal of joint property.

43. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties. Suits may be heard with closed doors

44. Notwithstanding anything contained in section 19 or section 20, where in the case of a trial in a Parsi Matrimonial Court not less than five delegates have attended throughout the proceedings, the trial shall not be invalid by reason of the absence during any part thereof of the other delegates Validity of trial

V of 1908. **45.** The provisions of the Code of Civil Procedure, 1908, shall, so far as the same may be applicable, apply to proceedings in suits instituted under this Act including proceedings in execution and orders subsequent to decree Provisions of Civil Procedure Code to apply to suits under the Act.

46. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the delegates before whom the case is tried: Determination of question of law and procedure and of fact.

Provided that, where such delegates are equally divided in opinion, the decision on the facts shall be the decision of the presiding Judge

47. An appeal shall lie to the High Court from— Appeal to High Court.

(*a*) the decision of any Court established under this Act, whether a Chief Matrimonial Court or District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits and on no other ground, and

(*b*) the granting of leave by any such Court under sub-section (3) of section 29:

Provided that such appeal shall be instituted within three calendar months after the decision appealed from shall have been pronounced

48. When the time hereby limited for appealing against any decree granting a divorce or annulling or dissolving a marriage shall have expired, and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal a divorce has been granted or a marriage has been declared to be annulled or dissolved, Liberty to parties to marry again.

but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been terminated by death.

V.—CHILDREN OF THE PARTIES.

Custody of children.

49. In any suit under this Act, the Court may from time to time pass such interim orders and make such provisions in the final decree as it may deem just and proper with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree upon application, by petition for this purpose, make, revoke, suspend or vary from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree or by interim orders in case the suit for obtaining such decree were still pending.

Settlement of wife's property for benefit of children.

50. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of any part of such property, not exceeding one-half thereof, for the benefit of the children of the marriage or any of them.

VI.—MISCELLANEOUS.

Superintendence of High Court.

51. The High Court shall have superintendence over all Courts constituted under this Act subject to its appellate jurisdiction in the same manner as it has over other Courts under section 107 of the Government of India Act,[1] and all the provisions of that section shall apply to such Courts.

Applicability of provisions of the Act.

52. (*1*) The provisions of this Act shall apply to all suits to which the same are applicable whether the circumstances relied on occurred before or after the passing of this Act, and whether any decree or order referred to was passed under this Act or under the law in force before the passing of this Act, and where any proceedings are pending in any Court at the time of the commencement of this Act, the Court shall allow such amendment of the pleadings as may be necessary as the result of the coming into operation of this Act.

(*2*) A Parsi who has contracted a marriage under the Parsi Marriage and Divorce Act, 1865,[2] or under this Act, even though such Parsi may change his or her religion or domicile, so long as his or her wife or husband is alive and so long as such Parsi has not been lawfully divorced from such wife or husband or such marriage has not lawfully been declared null and void or dissolved under the decree of a competent Court under either of the said Acts, shall remain bound by the provisions of this Act. XV of 18

53. [*Repeal.*] *Rep. by the Repealing and Amending Act, 1937* (*XX of 1937*), *s. 3 and Sch. II.*

[1] *See* now s. 224 of the Govt. of India Act, 1935.
[2] Rep. by this Act.

(Schedule I.)

SCHEDULE I.

(*See* section 3.)

Table of prohibited degrees of consanguinity and affinity.

A man shall not marry his—

1. Paternal grand-father's mother.
2. Paternal grand-mother's mother.
3. Maternal grand-father's mother.
4. Maternal grand-mother's mother.
5. Paternal grand-mother.
6. Paternal grand-father's wife.
7. Maternal grand-mother.
8. Maternal grand-father's wife.
9. Mother or step-mother.
10. Father's sister or step-sister.
11. Mother's sister or step-sister.
12. Sister or step-sister
13. Brother's daughter or step-brother's daughter, or any direct lineal descendant of a brother or step-brother.
14. Sister's daughter or step-sister's daughter, or any direct lineal descendant of a sister or step-sister.
15. Daughter or step-daughter, or any direct lineal descendant of either.
16. Son's daughter or step-son's daughter, or any direct lineal descendant of a son or step-son
17. Wife of son or step-son, or of any direct lineal descendant of a son or step-son
18. Wife of daughter's son or of step-daughter's son, or of any direct lineal descendant of a daughter or step-daughter.
19. Mother of daughter's husband.
20. Mother of son's wife.
21. Mother of wife's paternal grand-father.
22. Mother of wife's paternal grand-mother.
23. Mother of wife's maternal grand-father.
24. Mother of wife's maternal grand-mother.
25. Wife's paternal grand-mother.
26. Wife's maternal grand-mother.
27. Wife's mother or step-mother.
28. Wife's father's sister.
29. Wife's mother's sister.
30. Father's brother's wife.
31. Mother's brother's wife.
32. Brother's son's wife.
33. Sister's son's wife.

(Schedule I.)

A woman shall not marry her—

1. Paternal grand-father's father.
2. Paternal grand-mother's father.
3. Maternal grand-father's father.
4. Maternal grand-mother's father.
5. Paternal grand-father.
6. Paternal grand-mother's husband.
7. Maternal grand-father.
8. Maternal grand-mother's husband.
9. Father or step-father.
10. Father's brother or step-brother.
11. Mother's brother or step-brother.
12. Brother or step-brother.
13. Brother's son or step-brother's son, or any direct lineal descendant of a brother or step-brother.
14. Sister's son or step-sister's son, or any direct lineal descendant of a sister or step-sister.
15. Son or step-son, or any direct lineal descendant of either.
16. Daughter's son or step-daughter's son, or any direct lineal descendant of a daughter or step-daughter.
17. Husband of daughter or of step-daughter, or of any direct lineal descendant of a daughter or step-daughter.
18. Husband of son's daughter or of step-son's daughter, or of any direct lineal descendant of a son or step-son.
19. Father of daughter's husband.
20. Father of son's wife.
21. Father of husband's paternal grand-father.
22. Father of husband's paternal grand-mother.
23. Father of husband's maternal grand-father.
24. Father of husband's maternal grand-mother.
25. Husband's paternal grand-father.
26. Husband's maternal grand-father.
27. Husband's father or step-father.
28. Brother of husband's father.
29. Brother of husband's mother.
30. Husband's brother's son, or his direct lineal descendant.
31. Husband's sister's son, or his direct lineal descendant.
32. Brother's daughter's husband.
33. Sister's daughter's husband.

NOTE—In the above table the words "brother" and "sister" denote brother and sister of the whole as well as half blood. Relationship by step means relationship by marriages.

(*Schedule II.*)

SCHEDULE II.

(*See* section 6.)

Certificate of Marriage.

	Date and place of marriage.
	Names of the husband and wife.
	Condition at the time of marriage.
	Rank or profession.
	Age.
	Residence
	Names of the fathers or guardians
	Rank or profession.
	Signature of the officiating priest.
	Signatures of the contracting parties.
	Signatures of the fathers or guardians of the contracting parties under 21 years of age.
	Signatures of witnesses.

THE PAYMENT OF WAGES ACT, 1936.

CONTENTS.

SECTIONS.

ACT NO. IV OF 1936.[1]

[23rd April, 1936.]

An Act to regulate the payment of wages to certain classes of persons employed in industry.

WHEREAS it is expedient to regulate the payment of wages to certain classes of persons employed in industry; It is hereby enacted as follows:—

Short title, extent.

1. *(1)* This Act may be called the Payment of Wages Act, 1936.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1935, Pt. V, p. 20, and for Report of Select Committee, *see ibid.*, pp. 77 to 79.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas. Commencement and application.

(*3*) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

(*4*) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.

(*5*) The [4][Provincial Government] may, after giving three months' notice of its intention of so doing, by notification in the [5][Official Gazette], extend the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

(*6*) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average two hundred rupees a month or more.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(i) "factory" means a factory as defined in clause (*j*) of section 2 of the Factories Act, 1934; XXV of 1934.

(ii) "industrial establishment" means any—

(*a*) tramway or motor omnibus service;

(*b*) dock, wharf or jetty;

(*c*) inland steam-vessel;

(*d*) mine, quarry or oil-field:

(*e*) plantation:

(*f*) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

(iii) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea, and on which twenty-five or more persons are employed for that purpose;

(iv) "prescribed" means prescribed by rules made under this Act;

(v) "railway administration" has the meaning assigned to it in clause (*6*) of section 3 of the Indian Railways Act, 1890, and IX of 1890.

(vi) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work

[1] 28th March, 1937 *see* Gazette of India, 1937, Pt. I, p. 626.
[2] Subs by the A O for "G G. in C."
[3] Subs by the A. O for "Gazette of India".
[4] Subs. by the A. O for "L. G."
[5] Subs. by the A O for "local official Gazette".

or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include—

(*a*) the value of any house-accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the [1]* * * [2][Provincial Government];

(*b*) any contribution paid by the employer to any pension fund or provident fund;

(*c*) any travelling allowance or the value of any travelling concession;

(*d*) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(*e*) any gratuity payable on discharge.

Responsibility for payment of wages.

3. Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

Provided that, in the case of persons employed (otherwise than by a contractor)—

(*a*) in factories, if a person has been named as the manager of the factory under clause (*e*) of sub-section (*1*) of section 9 of the Factories Act, 1934, XXV of 19[illegible]

(*b*) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,

(*c*) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned,

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

Fixation of wage-periods.

4. (*1*) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(*2*) No wage-period shall exceed one month.

Time of payment of wages.

5. (*1*) The wages of every person employed upon or in—

(*a*) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,

(*b*) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day,

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[1] The words "G. G. in C. or" rep. by the A. O.
[2] Subs. by the A. O. for "L. G."

after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated

(3) The [1][Provincial Government] may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such persons or class of such persons

(4) All payments of wages shall be made on a working-day.

6. All wages shall be paid in current coin or currency notes or in both Wages to be paid in current coin or currency notes.

7. (1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890, the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act Deductions which may be made from wages

IX of 1890.

Explanation.—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely.—

(a) fines,

(b) deductions for absence from duty,

(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account where such damage or loss is directly attributable to his neglect or default,

(d) deductions for house-accommodation supplied by the employer,

(e) deductions for such amenities and services supplied by the employer as the [2]* * [3][Provincial Government] may, by general or special order, authorise,

Explanation.—The word "services" in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

(f) deductions for recovery of advances or for adjustment of over-payments of wages,

(g) deductions of income-tax payable by the employed person,

(h) deductions required to be made by order of a Court or other authority competent to make such order,

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[1] Subs. by the A. O. for "G. G in C."
[2] The words "G. G. in C. or" rep. by the A. O.
[3] Subs. by the A. O for "L. G."

(i) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Funds Act, 1925, applies or any recognised provident fund as defined in section 58A of the Indian Income-tax Act, 1922, or any provident fund approved in this behalf by the [1][Provincial Government], during the continuance of such approval; and XIX of 19[illegible] XI of 1922

(j) deductions for payments to co-operative societies approved by the [1][Provincial Government] or to a scheme of insurance maintained by the Indian Post Office.

Fines.

8. (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the [1][Provincial Government] or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

Explanation.—When the persons employed upon or in any railway, factory or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

Deductions for absence from duty.

9. (1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work,

[1] Subs. by the A. O. for "L. G."

such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work.

Provided that, subject to any rules made in this behalf by the [1][Provincial Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

[2][*Explanation*.—For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in-strike or for any other cause which is not reasonable in the circumstances, to carry out his work.]

10. (1) A deduction under caluse (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions. **Deductions for damage or loss.**

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11. A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation, amenity or service supplied and, in the case of a deduction under the said clause (e), shall be subject to such conditions as [3]* * * the [1][Provincial Government] may impose. **Deductions for services rendered.**

12. Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:— **Deductions for recovery of advances.**

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;

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[1] Subs. by the A. O. for "L. G."
[2] Ins. by the Payment of Wages (Amendment) Act, 1937 (22 of 1937), s. 2.
[3] The words "the G. G. in C. or" rep. by the A. O.

(b) recovery of advances of wages not already earned shall be subject to any rules made by the [1][Provincial Government] regulating the extent to which such advances may be given and the instalments by which they may be recovered.

Deductions for payments to co-operative societies and insurance schemes.

13. Deductions under clause (j) of sub-section (2) of section 7 shall be subject to such conditions as the [1][Provincial Government] may impose.

Inspectors.

14. (1) An Inspector of Factories appointed under sub-section (1) of section 10 of the Factories Act, 1934, shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him. XXV of 1934.

(2) The [2][Provincial Government] may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) The [1][Provincial Government] may, by notification in the [3][Official Gazette], appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code XLV of 1860.

Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.

15. (1) The [1][Provincial Government] may, by notification in the [3][Official Gazette], appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

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[1] Subs. by the A. O for "L. G."
[2] Subs. by the A. O. for "G G. in C."
[3] Subs. by the A O. for "local official Gazette".

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bonâ fide* error or *bonâ fide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and

(b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

Single application in respect of claims from unpaid group

16. (1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

Appeal.

17. (*1*) An appeal against a direction made under [1][sub-section (*3*) or sub-section (*4*)] of section 15 may be preferred, within thirty days of the date on which the direction was made, in a Presidency-town [2]* * before the Court of Small Causes and elsewhere before the District Court—

(*a*) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or

(*b*) by an employed person, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees, or

(*c*) by any person directed to pay a penalty under [3][sub-section (*4*)] of section 15.

(*2*) Save as provided in sub-section (*1*), any direction made under sub-section (*3*) or [3][sub-section (*4*)] of section 15 shall be final.

Powers of authorities appointed under section 15.

18. Every authority appointed under sub-section (*1*) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, V of 1908. for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898. V of 1898.

Power to recover from employer in certain cases.

19. When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

Penalty for offences under the Act.

20. (*1*) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, section 5 and sections 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred rupees.

(*2*) Whoever contravenes the provisions of section 4, section 6 or section 25 shall be punishable with fine which may extend to two hundred rupees.

Procedure in trial of offences

21. (*1*) No Court shall take cognizance of a complaint against any person for an offence under sub-section (*1*) of section 20, unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

(*2*) Before sanctioning the making of a complaint against any person for an offence under sub-section (*1*) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person

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[1] Subs. by s. 2 and Sch. I of the Repealing and Amending Act, 1937 (20 of 1937), for "sub-section (*3*)".

[2] The words "or in Rangoon" rep. by the A. O.

[3] Subs. by s. 2 and Sch. I of Act 20 of 1937 for "sub-section (*5*)".

an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

(a) a *bonâ fide* error or *bonâ fide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of section 20 the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

Bar of suits.

22. No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

(a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17 ; or

(b) has formed the subject of a direction under section 15 in favour of the plaintiff , or

(c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff ; or

(d) could have been recovered by an application under section 15.

Contracting out.

23. Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

Application of Act to Federal railways, mines and oilfields.

26 Geo. 5, c. 2.

[1][**24.** The powers by this Act conferred upon the Provincial Government shall, in relation to Federal railways (within the meaning of the Government of India Act, 1935), mines and oilfields, be powers of the Central Government.]

Display by notice of abstracts of the Act.

25. The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as may be prescribed.

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[1] Subs. by the A. O. for the original section.

26. (*1*) The [1][Provincial Government] may make rules[2] to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17. Rule-making power.

(*2*) The [3][Provincial Government] may, [4]* * * by notification in the [5][Official Gazette], make rules[6] for the purpose of carrying into effect the provisions of this Act

(*3*) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (*2*) may—

(*a*) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof,

(*b*) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;

(*c*) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them;

(*d*) prescribe the manner of giving notice of the days on which wages will be paid;

(*e*) prescribe the authority competent to approve under sub-section (*1*) of section 8 acts and omissions in respect of which fines may be imposed,

(*f*) prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10;

(*g*) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (*2*) of section 9;

(*h*) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended;

(*i*) prescribe the extent to which advances may be made and the instalments by which they may be recovered with reference to clause (*b*) of section 12;

(*j*) regulate the scales of costs which may be allowed in proceedings under this Act;

(*k*) prescribe the amount of court-fees payable in respect of any proceedings under this Act; and

(*l*) prescribe the abstracts to be contained in the notices required by section 25.

(*4*) In making any rule under this section the [3][Provincial Government] may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

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[1] Subs. by the A. O. for "G. G. in C"

[2] For the Payment of Wages (Procedure) Rules, 1937, made by the G. G. in C. under this provision, see Gazette of India, 1937, Pt. I, pp. 303 to 312.

[illegible]

... in C. under this pro ...

(5) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section
X of 1897. 23 of the General Clauses Act, 1897, shall not be less than three months from the date on which the draft of the proposed rules was published.

THE DECREES AND ORDERS VALIDATING ACT, 1936.

ACT No. V OF 1936.[1]

[*26th April, 1936.*]

An Act to remove certain doubts and to establish the validity of certain proceedings in High Courts of Judicature in British India.

WHEREAS doubts have arisen as to the validity of certain proceedings in High Courts of Judicature in British India under the Letters Patent erecting and establishing those Courts;

AND WHEREAS it is expedient to terminate those doubts and to establish the validity of those proceedings;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Decrees and Orders Validating Act, 1936.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Certain decrees and orders not to be called in question.

2. No decree passed or order made by the High Court of Judicature at Fort William in Bengal, the High Court of Judicature at Madras or the High Court of Judicature at Bombay, in the exercise of its ordinary original civil jurisdiction under clause 12 of its Letters Patent, or by the High Court of Judicature at Rangoon, in the exercise of its original civil jurisdiction under clause 10 of its Letters Patent, shall be called in question in any proceedings before any other Court on the ground that the High Court passing the decree or making the order had no jurisdiction to pass or make the decree or order.

Restoration of proceedings.

3. Where in any proceedings concluded on or after the 26th day of August, 1935, any such decree or order has been found to be invalid on such ground by any Court, such finding shall be void and of no effect and the Court shall, notwithstanding anything to the contrary in the Indian Limitation Act,
IX of 1908. 1908, or any other law for the time being in force, on application made within six months from the commencement of this Act by any person prejudicially affected by such finding restore the proceedings at and continue the proceedings from the stage reached immediately before the order embodying or based on such finding was made.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 20.

THE GENEVA CONVENTION IMPLEMENTING ACT, 1936.

ACT No. XIV OF 1936.[1]

[*27th October, 1936.*]

An Act to implement Article 28 of the Geneva Convention of the 27th day of July, 1929.

WHEREAS India was a signatory to the International Convention for the Amelioration of the Conditions of the Wounded and Sick in Armies in the Field, drawn up in Geneva and dated the 27th day of July, 1929;

AND WHEREAS it is necessary to provide for the discharge of the obligations imposed by Article 28 of that Convention in so far as provision has not been made by the Geneva Convention Act, 1911; 1 & 2 Geo. 5, c. 20.

It is hereby enacted as follows:—

Short title and extent.

1. *(1)* This Act may be called the Geneva Convention Implementing Act, 1936.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Prohibition of use of imitations of emblem of red cross on white ground.

2. No person shall use for the purposes of his trade or business or for any other purpose whatsoever any sign constituting a colourable imitation of the heraldic emblem of the red cross on a white ground formed by reversing the federal colours of Switzerland.

Prohibition of use of emblem of white cross on red ground or imitations thereof.

3. No person shall use for the purposes of his trade or business the heraldic emblem of the white cross on a red ground, being the federal colours of Switzerland, or any sign constituting a colourable imitation of that heraldic emblem.

Penalty.

4. Any person contravening the provisions of section 2 or section 3 shall be punishable with fine which may extend to fifty rupees, and when such contravention is committed by a company, association or body of individuals, then, without prejudice to the liability of such company, association or body, every member thereof who is knowingly a party to the contravention shall be liable to the like penalty.

Previous sanction for prosecution.

5. No criminal Court shall take cognizance of any offence punishable under this Act except with the previous sanction of the [2][Central Government], [3]* * *.

Saving.

6. Nothing in the foregoing sections shall affect the right of any person to continue to use for a period of two years from the commencement of this Act any sign or emblem which it was not unlawful for him to use at the commencement of this Act.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 310.
[2] Subs. by the A. O. for "G. G. in C."
[3] The words "or the L. G." rep. by the A. O.

THE BANGALORE MARRIAGES VALIDATING ACT, 1936.

ACT NO. XVI OF 1936.[1]

[*27th October, 1936.*]

An Act to validate certain marriages solemnized in the Civil and Military Station of Bangalore.

WHEREAS Mr Walter James McDonald Redwood, a Missionary of the Plymouth Brethren, was, in the year 1929, granted by the Resident in Mysore a licence, under the Indian Christian Marriage Act, 1872, as applied to the Civil and Military Station of Bangalore, to solemnize marriages within the territories included in the Civil and Military Station of Bangalore between persons one of whom was a Native Christian subject of Mysore, and neither of whom was a Christian subject of His Majesty, (XV of 1872.)

AND WHEREAS the said Walter James McDonald Redwood has, in the belief that he was authorised so to do, solemnized certain marriages in the Civil and Military Station of Bangalore between certain Christian subjects of His Majesty;

AND WHEREAS the parties to the said marriages all believed that the said Walter James McDonald Redwood was duly authorised to solemnize the same, and that such marriages were valid in law,

AND WHEREAS the said parties being Christian subjects of His Majesty, the said Walter James McDonald Redwood had not the requisite authority under the licence held by him to solemnize the said marriages,

AND WHEREAS it is expedient that the said marriages, having been solemnized in good faith, should be validated;

It is hereby enacted as follows —

1. This Act may be called the Bangalore Marriages Validating Act, 1936. (Short title.)

2. All marriages between Christian subjects of His Majesty which have already been solemnized in the Civil and Military Station of Bangalore by Mr. Walter James McDonald Redwood, a Missionary of the Plymouth Brethren, shall be, and shall be deemed to have been with effect from the date of solemnization of each respectively, as good and valid in law as if such marriages had been solemnized under a licence authorizing solemnization of marriages between Christian subjects of His Majesty in the Civil and Military Station of Bangalore. (Validation of certain irregular marriages.)

3. Certificates of marriages which are declared by section 2 to be good and valid in law, and register-books and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the provisions of the Indian Christian Marriage Act, 1872 in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been duly solemnized under Part I of the said Act. (Validation of records of irregular marriages.) (XV of 1872.)

[1] For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 314.

THE RED CROSS SOCIETY (ALLOCATION OF PROPERTY) ACT, 1936.

ACT NO. XVIII OF 1936.[1]

[27th October, 1936.]

An Act to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society.

WHEREAS it is expedient to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society; It is hereby enacted as follows:—

Short title and extent.

1. *(1)* This Act may be called the Red Cross Society (Allocation of Property) Act, 1936.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

Apportionment of corpus of property of Indian Red Cross Society.

2. Notwithstanding anything contained in the Indian Red Cross Society Act, 1920, an amount equal to seven per cent of the corpus of the property vested by the said Act in the Indian Red Cross Society (which amount is in this Act referred to as the Fund) shall be set apart to be administered in the Province of Burma as a trust by such body of trustees as the High Court of Judicature at Rangoon may appoint, and in accordance with, and for such of the purposes referred to in section 7 of the said Act as may be contained in, any scheme settled by the said High Court. XV of 1920.

Transfer of apportioned property to trustees and dissolution of Burma Branch Committee of Indian Red Cross Society.

3. As soon as the High Court of Judicature at Rangoon has settled a scheme and made an order vesting the Fund in the body of trustees referred to in section 2 the Managing Body of the Indian Red Cross Society shall transfer the Fund to the said body of trustees and thereupon the Burma Provincial Committee of the Indian Red Cross Society, known as the Indian Red Cross Society, Burma Branch, shall be dissolved and all property of or belonging to that Committee, including the unexpended balance, if any, of any moneys distributed to that Committee under section 8 of the Indian Red Cross Society Act, 1920, shall be transferred to and shall vest in the said body of trustees to be held by them in the same manner and, subject to the scheme settled by the said High Court, for the same purposes as such property was held by that Committee. XV of 1920.

Cesser of provisions of Indian Red Cross Society Act, 1920

4. On the making of the vesting order referred to in section 3 the provisions of the Indian Red Cross Society Act, 1920, and of any rules made thereunder relating to Branch Committees in the Provinces, their constitution, powers or functions, their representation on the Managing Body of the Indian Red Cross Society, and their right to receive a proportion of the income of XV of 1920.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1936, Pt. V, p. 316.

property vested in the Society, shall cease to have effect in respect of the Province of Burma and of the Indian Red Cross Society, Burma Branch Committee.

THE DURGAH KHAWAJA SAHEB ACT, 1936.

CONTENTS.

SECTIONS.

ACT NO. XXIII OF 1936.[1]

[27th October, 1936]

An Act to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khawaja Moin-ud-din Chishti, generally known as Durgah Khawaja Saheb, Ajmer.

WHEREAS it is expedient to make better provision for the administration of the Durgah Khawaja Saheb, Ajmer; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Durgah Khawaja Saheb Act, 1936. Short title

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1936, Pt. V, p 146.

and commencement.

(2) It shall come into force on such date[1] (not later than six months after this Act receives the assent of the [2][Central Government]) as the [3][Provincial Government] may, by notification in the [4][Official Gazette], appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Committee" means the Durgah Committee constituted under this Act;

(2) "Court" means the principal Court of original civil jurisdiction;

(3) "Durgah" means the institution known as the Durgah Khawaja Saheb, Ajmer, and includes the premises called the Durgah Sharif with all buildings contained therein, together with all additions thereto or alterations thereof which may be made after the commencement of this Act;

(4) "Durgah Endowment" includes—

(a) the Durgah Khawaja Saheb, Ajmer;

(b) all buildings and movable property within the boundaries of the Durgah Sharif;

(c) Durgah Jagir including all land, houses and shops and all landed property wheresoever situated belonging to the Durgah Sharif;

(d) all other property in India, and all income derived from any source whatsoever, dedicated to the Durgah or placed for any religious, pious or charitable purposes under the Durgah Administration; and

(e) only such offerings as are intended explicitly for the use of the Durgah;

(5) The words "trustee, Manager, or superintendent" used in this Act shall have the same meaning and application as under the Religious Endowments Act, 1863.

Act to override Act XX of 1863.

3. This Act shall have effect notwithstanding anything inconsistent therewith contained in the Religious Endowments Act, 1863. XX of 1863.

The Committee.

4. (1) The administration and control of the Durgah Endowment shall be vested in a Committee constituted in the manner hereinafter provided.

(2) The Committee shall by the name of "The Durgah Committee, Ajmer" be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued through its President.

Composition of Committee.

5. The Committee shall consist of twenty-five members of whom—

(a) one shall be Sajjadanashin for the time being *ex-officio* or his nominee;

(b) one shall be Mutawalli for the time being *ex-officio* or his nominee;

(*c*) two shall belong to the Khadim community and elected by the members of their own community possessing the qualifications mentioned in section 7 of this Act;

(*d*) five shall be elected from amongst the Muslim citizens of Ajmer (other than Khadims, Mutawalli and the Sajjadanashin) by persons (other than the Khadims) possessing the qualifications mentioned in section 7 of this Act;

(*e*) three shall be elected by the Muslim members of the Central Legislature;

(*f*) one shall be elected by the Muslim members of the North-West Frontier Province Legislative Assembly;

(*g*) one shall be elected by the Muslim members of the Bombay Provincial Legislature,

(*h*) one shall be elected by the Muslim members of the United Provinces Provincial Legislature;

(*i*) one shall be elected by the Muslim members of the Bihar Provincial Legislature;

(*j*) one shall be elected by the Muslim members of the Bengal Provincial Legislature,

(*k*) one shall be elected by the Muslim members of the Punjab Provincial Legislature,

(*l*) one shall be elected by the Muslim members of the Sind Provincial Legislature,

(*m*) one shall be elected by the Muslim members of the Madras Provincial Legislature;

(*n*) one shall be nominated by His Exalted Highness the Nizam of Hyderabad;

(*o*) four shall be Sajjadanashins of the Shrines of the Chishti Order of Sufis to be co-opted by the members elected or nominated under the preceding sub-sections (*a*) to (*n*):

Provided that no person other than a Hanafi Muslim shall be a member thereof.

Members elected by the Provincial and Central Legislatures may not be members of Legislatures.

Electoral area.

6. For the purpose of election of members mentioned in section 5 (*d*) to the Durgah Committee, the electoral area shall consist of the area within the municipal limits of the city of Ajmer.

Qualifications of electors.

7. Only those Muslims who are recorded as voters in the Register of Voters of the Municipal Board of Ajmer, except persons belonging to the Khadim community, shall have the right to vote in the election of members under section 5 (*d*).

Qualifications of candidates for election.

8. No person shall be qualified to be a candidate for election to the Committee unless he is qualified as a voter under section 7 and—

(*a*) he can read and write Urdu,

(b) he has not been convicted by a criminal Court of any offence involving moral turpitude, and sentenced to imprisonment for a period exceeding three months.

Term of office of members of Committee.

9. A member of the Committee shall hold office for a term of five years from the date of election or nomination. Casual vacancies shall be filled up by the authority which has the power to appoint the members:

Provided that a member elected or nominated to fill up a casual vacancy shall hold office only so long as the member in whose place he was elected or nominated would have held office if the vacancy had not occurred.

President and Vice-President.

10. (1) The Committee shall elect a President and a Vice-President from among its members except those who are elected under items (a), (b) and (c) of section 5.

(2) When the office of the President is vacant or in the absence of the President from any meeting, the Vice-President shall exercise the functions of the President.

(3) In the absence of the President and Vice-President, a meeting of the Committee may be presided over by a member elected by the majority of the members present at the meeting.

Powers and duties of the Committee

11. (1) The Committee shall take the place of and shall supersede the Committee appointed under section 7 of the Religious Endowments Act, 1863. XX of 1863

(2) The duties and powers of the Committee shall be—

(a) to manage the Durgah Endowment;
(b) to keep the buildings within the boundaries of the Durgah Sharif and all buildings, houses and shops comprised in the Durgah Endowment in proper order and in a state of good repair;
(c) to receive all moneys and other income of the Durgah Endowment;
(d) to see that the endowment funds are spent in the manner desired by the donors;
(e) to pay salaries, allowances, and perquisites, and make all other payments due out of or charged on the revenues or income of the Durgah Endowment;
(f) to engage, appoint, promote, degrade, suspend or dismiss servants of the Durgah Endowment;
(g) to do all other such things as may be incidental or conducive to efficient administration.

(3) That the Committee will exercise its powers of administration, control and management of Durgah Endowment through the Mutawalli who shall be its Manager.

Sub-Committees.

12. The Committee may appoint such and so many standing and special committees as it deems fit, and may appoint to them persons who are not members of the Committee, to exercise such powers and perform such duties as may be delegated to them by the Committee, subject to the confirmation by the Committee.

13. Save as otherwise provided under any enactment for the time being in force the Committee shall, in the exercise of its powers and the discharge of its duties, follow the rules of the Mohammadan law applicable to Hanafi Mussalmans in British India; and shall conduct and regulate the established rites and ceremonies in accordance with the tenets of the Chishti Saints. Committee to observe Mohammadan law and tenets of the Chishti Saints.

14. The [1][Provincial Government] may make rules, not inconsistent with the provisions of this Act, to— Rules.

(*a*) provide for the manner of elections under section 5;

(*b*) provide for the authority by which and the manner in which electoral rolls shall be prepared or amended,

(*c*) regulate the appointment and duties of the returning officer or officers for the election of the Committee and provide for the decision of election disputes.

15. (*1*) The Committee may make bye-laws to carry out the purposes of this Act. Bye-laws.

(*2*) In particular and without prejudice to the generality of the foregoing power such bye-laws may provide for—

(*a*) the division of duties among the President and members of the Committee,

(*b*) the establishment and term of office of Sub-Committees and their powers and duties,

(*c*) the time and place of, the quorum for, and the procedure and conduct of business at, the meetings of the Committee and of Sub-Committees;

(*d*) the security, if any, to be taken from the servants of the Committee;

(*e*) the books and accounts to be kept at the office of the Committee;

(*f*) the custody and investment of the property and funds of the Durgah;

(*g*) the details to be included in or excluded from the budget of the Durgah;

(*h*) the persons by whom receipts may be granted for money paid to the Committee;

(*i*) the accounts, returns and reports to be submitted by the trustee, Manager, or superintendent;

(*j*) maintenance of peace and order within the Durgah compound;

(*k*) the duties and powers of the trustee, Manager, or superintendent and other officers and servants of the Durgah,

(*l*) the manner of entering into contracts by or on behalf of the Committee.

(*3*) All bye-laws made by the Committee under this section shall first be published in draft for objections by being hung up on the premises of the Durgah.

[1] Subs. by the A. O. for "Chief Commissioner".

Tribunal of Arbitration.

16. Any dispute arising about the powers or privileges of Sajjadanashin, Mutawalli or any Khadim and the Committee, shall at the request of either side be referred to a Tribunal of Arbitration consisting of one member appointed by the Committee, one member appointed by the aggrieved party and an umpire of a rank not below that of a District Judge appointed by the [1][Provincial Government] of Ajmer-Merwara. The decision of the Tribunal shall be final and no suit shall lie in any civil Court in respect of the matters decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration under the terms of this section within the meaning of the Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception of section (2) thereof, shall apply accordingly. IX of 1899.

Validity of proceedings of the Committee

17. No act or proceeding of the Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

Restriction on powers of Committee.

18. The Durgah Committee shall not be empowered to use the property movable and immovable, of the Durgah Endowment for any purpose other than those intended by the founders of the Wakf.

Expenditure of income.

19. The Committee shall in the expenditure of the income of the Durgah Endowment abide by the directions contained in the Wakf-Deed and shall allot not less than 20 per cent. of the income from Durgah Endowment to religious preaching.

Audit of accounts and annual report.

20. (*1*) The accounts of the Durgah shall be duly audited every year by a Chartered or Registered Accountant appointed by the Committee.

(*2*) The Committee shall publish an annual report on the administration of the Durgah with the financial estimate and the report of the Auditor.

THE AGRICULTURAL PRODUCE (GRADING AND MARKING) ACT, 1937.

ACT NO. I OF 1937.[2]

[24th February, 1937.]

An Act to provide for the grading and marking of agricultural produce.

WHEREAS it is expedient to provide for the grading and marking of agricultural produce; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Agricultural Produce (Grading and Marking) Act, 1937.

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[1] Subs. by the A. O. for "Chief Commissioner".
[2] For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, dated 13th February, 1937, p. 71.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas but excluding Burma

2. In this Act, unless the contrary appears from the subject or context,— Explanations.

(a) "agricultural produce" includes all produce of agriculture or horticulture and all articles of food or drink wholly or partly manufactured from any such produce, and fleeces and the skins of animals,

XLV of 1860. (b) "counterfeit" has the meaning assigned to that word by section 28 of the Indian Penal Code,

(c) "covering" includes any vessel, box, crate, wrapper, tray or other container;

(d) "grade designation" means a designation prescribed as indicative of the quality of any scheduled article;

(e) "grade designation mark" means a mark prescribed as representing a particular grade designation;

(f) "quality", in relation to any article, includes the state and condition of the article,

(g) "prescribed" means prescribed by rules made under this Act;

(h) "scheduled article" means an article included in the Schedule; and

(i) an article is said to be marked with a grade designation mark, if the article itself is marked with a grade designation mark or any covering containing or label attached to such article is so marked.

3. The [1][Central Government] may, after previous publication by notification in the [2][Official Gazette], make rules[3]— Prescription of grade designations.

(a) fixing grade designations to indicate the quality of any scheduled article,

(b) defining the quality indicated by every grade designation;

(c) specifying grade designation marks to represent particular grade designations;

(d) authorising a person or a body of persons, subject to any prescribed conditions, to mark with a grade designation mark any article in respect of which such mark has been prescribed or any covering containing or label attached to any such article;

(e) specifying the conditions referred to in clause (d) including in respect of any article conditions as to the manner of marking, the manner

[1] Subs by the A O. for "G G. in C."
[2] Subs. by the A. O for "Gazette of India".
[3] For such rules, *see* Gazette of India, 1937, Pt. I, pp. 547 to 564.

in which the article shall be packed, the type of covering to be used, and the quantity by weight, number or otherwise to be included in each covering;

(*f*) providing for the payment of any expenses incurred in connection with the manufacture or use of any implement necessary for the reproduction of a grade designation mark or with the manufacture or use of any covering or label marked with a grade designation mark; and

(*g*) providing for the confiscation and disposal of produce marked otherwise than in accordance with the prescribed conditions with a grade designation mark.

Penalty for unauthorised marking with grade designation mark.

4. Whoever marks any scheduled article with a grade designation mark, not being authorised to do so by rule made under section 3, shall be punishable with fine which may extend to five hundred rupees.

Penalty for counterfeiting grade designation mark.

5. Whoever counterfeits any grade designation mark or has in his possession any die, plate or other instrument for the purpose of counterfeiting a grade designation mark shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Extension of application of Act.

6. The [1][Central Government], after such consultation as [2][it] thinks fit of the interests likely to be affected, may by notification in the [3][Official Gazette] declare that the provisions of this Act shall apply to an article of agricultural produce not included in the Schedule, and on the publication of such notification such article shall be deemed to be included in the Schedule.

THE SCHEDULE.

(*See* section 2.)

1. Fruit.
2. Vegetables.
3. Eggs.
4. Dairy produce.
5. Tobacco.
6. Coffee.
7. Hides and Skins.

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[1] Subs. by the A. O. for "G. G in C."
[2] Subs. by the A O. for "he".
[3] Subs by the A. O. for "Gazette of India".

THE ARBITRATION (PROTOCOL AND CONVENTION) ACT, 1937.

ACT NO. VI OF 1937.[1]

[4th March, 1937.]

An Act to make certain further provisions respecting the law of arbitration in British India.

WHEREAS India was a State signatory to the Protocol on Arbitration Clauses set forth in the First Schedule, and to the Convention on the Execution of Foreign Arbitral Awards set forth in the Second Schedule, subject in each case to a reservation of the right to limit its obligations in respect thereof to contracts which are considered as commercial under the law in force in British India;

AND WHEREAS it is expedient, for the purpose of giving effect to the said Protocol and of enabling the said Convention to become operative in British India, to make certain further provisions respecting the law of arbitration;

It is hereby enacted as follows —

Short title, extent and operation.

1. (*1*) This Act may be called the Arbitration (Protocol and Convention) Act, 1937.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

(*3*) The provisions of this Act, except this section, shall have effect only from such date as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint in this behalf, and the [2][Central Government] may appoint different dates[4] for the coming into effect of different provisions of the Act.

Interpretation.

2. In this Act "foreign award" means an award on differences relating to matters considered as commercial under the law in force in British India, made after the 28th day of July, 1924,—

(*a*) in pursuance of an agreement for arbitration to which the Protocol set forth in the First Schedule applies, and

(*b*) between persons of whom one is subject to the jurisdiction of some one of such Powers as the [2][Central Government], being satisfied that reciprocal provisions have been made, may, by notification[5] in the [3][Official Gazette], declare to be parties to the Convention set forth in the Second Schedule, and of whom the other is subject to the jurisdiction of some other of the Powers aforesaid, and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1936, Pt V, p 10, and for Report of Select Committee, *see ibid*, 1937, Pt. V, p. 73

[2] Subs by the A O for "G G in C"

[3] Subs by the A O for "Gazette of India"

[4] S 3 came into effect on the 30th November, 1937 *see* Gazette of India, 1937, Pt. I, p. 1945; and ss 2 and 4 to 10 on the 23rd January, 1938 *see ibid*, 1938, Pt I, p 25.

[5] For such notification, *see* Gazette of India, 1938, Pt I, p. 24.

(c) in one of such territories as the [1][Central Government], being satisfied that reciprocal provisions have been made, may, by like notification, declare to be territories to which the said Convention applies,

and for the purposes of this Act an award shall not be deemed to be final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.

Stay of proceedings in respect of matters to be referred to arbitration.

3. Notwithstanding anything contained in the Indian Arbitration Act, 1899, or in the Code of Civil Procedure, 1908, if any party to a submission made in pursuance of an agreement to which the Protocol set forth in the First Schedule as modified by the reservation subject to which it was signed by India applies, or any person claiming through or under him, commences any legal proceedings in any Court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed, or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

IX of 1899. V of 1908.

Effect of foreign awards.

4. (1) A foreign award shall, subject to the provisions of this Act, be enforceable in British India as if it were an award made on a matter referred to arbitration in British India.

(2) Any foreign award which would be enforceable under this Act shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence set off or otherwise in any legal proceedings in British India, and any references in this Act to enforcing a foreign award shall be construed as including references to relying on an award.

Filing of foreign award in Court.

5. (1) Any person interested in a foreign award may apply to any Court having jurisdiction over the subject-matter of the award that the award be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

Enforcement of foreign award.

6. (1) Where the Court is satisfied that the foreign award is enforceable under this Act, the Court shall order the award to be filed and shall proceed to pronounce judgment according to the award.

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[1] Subs. by the A. O. for "G. G. in C."

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of or not in accordance with the award.

Conditions for enforcement of foreign awards.

7. (*1*) In order that a foreign award may be enforceable under this Act it must have—

(*a*) been made in pursuance of an agreement for arbitration which was valid under the law by which it was governed,

(*b*) been made by the tribunal provided for in the agreement or constituted in manner agreed upon by the parties,

(*c*) been made in conformity with the law governing the arbitration procedure,

(*d*) become final in the country in which it was made,

(*e*) been in respect of a matter which may lawfully be referred to arbitration under the law of British India,

and the enforcement thereof must not be contrary to the public policy or the law of British India.

(*2*) A foreign award shall not be enforceable under this Act if the Court dealing with the case is satisfied that—

(*a*) the award has been annulled in the country in which it was made, or

(*b*) the party against whom it is sought to enforce the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case, or was under some legal incapacity and was not properly represented, or

(*c*) the award does not deal with all the questions referred or contains decisions on matters beyond the scope of the agreement for arbitration :

Provided that if the award does not deal with all questions referred the Court may, if it thinks fit, either postpone the enforcement of the award or order its enforcement subject to the giving of such security by the person seeking to enforce it as the Court may think fit

(*3*) If a party seeking to resist the enforcement of a foreign award proves that there is any ground other than the non-existence of the conditions specified in clauses (*a*), (*b*) and (*c*) of sub-section (*1*), or the existence of the conditions specified in clauses (*b*) and (*c*) of sub-section (*2*), entitling him to contest the validity of the award, the Court may, if it thinks fit, either refuse to enforce the award or adjourn the hearing until after the expiration of such period as appears to the Court to be reasonably sufficient to enable that party to take the necessary steps to have the award annulled by the competent tribunal.

Evidence.

8. (*1*) The party seeking to enforce a foreign award must produce—

(*a*) the original award or a copy thereof duly authenticated in manner required by the law of the country in which it was made ;

(*b*) evidence proving that the award has become final, and

(*c*) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in clauses (*a*), (*b*) and (*c*) of sub-section (*1*) of section 7 are satisfied.

(c) in one of such territories as the [1][Central Government], being satisfied that reciprocal provisions have been made, may, by like notification, declare to be territories to which the said Convention applies,

and for the purposes of this Act an award shall not be deemed to be final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.

Stay of proceedings in respect of matters to be referred to arbitration.

3. Notwithstanding anything contained in the Indian Arbitration Act, 1899, or in the Code of Civil Procedure, 1908, if any party to a submission made in pursuance of an agreement to which the Protocol set forth in the First Schedule as modified by the reservation subject to which it was signed by India applies, or any person claiming through or under him, commences any legal proceedings in any Court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings, and the Court, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed, or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings. IX of 1899. V of 1908.

Effect of foreign awards.

4. (1) A foreign award shall, subject to the provisions of this Act, be enforceable in British India as if it were an award made on a matter referred to arbitration in British India.

(2) Any foreign award which would be enforceable under this Act shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence set off or otherwise in any legal proceedings in British India, and any references in this Act to enforcing a foreign award shall be construed as including references to relying on an award.

Filing of foreign award in Court.

5. (1) Any person interested in a foreign award may apply to any Court having jurisdiction over the subject-matter of the award that the award be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

Enforcement of foreign award.

6. (1) Where the Court is satisfied that the foreign award is enforceable under this Act, the Court shall order the award to be filed and shall proceed to pronounce judgment according to the award.

[1] Subs. by the A. O. for "G. G. in C."

3. Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

4 The Tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom Article 1 applies and including an Arbitration Agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the Arbitrators

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative.

5 The present Protocol, which shall remain open for signature by all States, shall be ratified. The ratification shall be deposited as soon as possible with the Secretary-General of the League of Nations, who shall notify such deposit to all the Signatory States.

6 The present Protocol will come into force as soon as two ratifications have been deposited Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratification

7 The present Protocol may be denounced by any Contracting State on giving one year's notice Denunciation shall be effected by a notification addressed to the Secretary-General of the League, who will immediately transmit copies of such notification to all the other Signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State

8 The Contracting States may declare that their acceptance of the present Protocol does not include any or all of the undermentioned territories: that is to say, their colonies, overseas possessions or territories, protectorates or the territories over which they exercise a mandate

The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the League of Nations shall be informed as soon as possible of such adhesions He shall notify such adhesions to all Signatory States. They will take effect one month after the notification by the Secretary-General to all Signatory States

The Contracting States may also denounce the Protocol separately on behalf of any of the territories referred to above Article 7 applies to such denunciation.

THE SECOND SCHEDULE.

Convention on the Execution of Foreign Arbitral Awards.

Article 1.—In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement, whether relating to existing or future differences (hereinafter called

" a submission to arbitration ") covered by the Protocol on Arbitration Clauses opened at Geneva on September 24th, 1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

To obtain such recognition or enforcement, it shall, further, be necessary:

(*a*) That the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;

(*b*) That the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon,

(*c*) That the award has been made by the Arbitral Tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;

(*d*) That the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to opposition, appel or pourvoi en cassation (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;

(*e*) That the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

Article 2.—Even if the conditions laid down in Article 1 hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied:

(*a*) That the award has been annulled in the country in which it was made;

(*b*) That the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented;

(*c*) That the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration.

If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it thinks fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.

Article 3.—If the party against whom the award has been made proves that, under the law governing the arbitration procedure, there is a ground, other than the grounds referred to in Article 1 (*a*) and (*c*), and Article 2 (*b*) and (*c*), entitling him to contest the validity of the award in a Court of Law, the Court may, if it thinks fit, either refuse recognition or enforcement of the award or adjourn the consideration thereof, giving such party a reasonable time within which to have the award annulled by the competent tribunal.

Article 4.—The party relying upon an award or claiming its enforcement must supply, in particular:

(1) The original award or a copy thereof duly authenticated, according to the requirements of the law of the country in which it was made ;

(2) Documentary or other evidence to prove that the award has become final, in the sense defined in Article 1 (*d*), in the country in which it was made ,

(3) When necessary, documentary or other evidence to prove that the conditions laid down in Article 1, paragraph 1 and paragraph 2 (*a*) and (*c*), have been fulfilled

A translation of the award and of the other documents mentioned in this Article into the official language of the country where the award is sought to be relied upon may be demanded Such translations must be certified correct by a diplomatic or consular agent of the country to which the party who seeks to rely upon the award belongs or by a sworn translator of the country where the award is sought to be relied upon.

Article 5.—The provisions of the above Articles shall not deprive any interested party of the right of availing himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

Article 6.—The present Convention applies only to arbitral awards made after the coming into force of the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923.

Article 7.—The present Convention, which will remain open to the signature of all the signatories of the Protocol of 1923 on Arbitration Clauses, shall be ratified

It may be ratified only on behalf of those Members of the League of Nations and non-Member States on whose behalf the Protocol of 1923 shall have been ratified

Ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who will notify such deposit to all the signatories.

Article 8.—The present Convention shall come into force three months after it shall have been ratified on behalf of two High Contracting Parties. Thereafter, it shall take effect, in the case of each High Contracting Party, three months after the deposit of the ratification on its behalf with the Secretary-General of the League of Nations.

Article 9.—The present Convention may be denounced on behalf of any Member of the League or non-Member State. Denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will immediately send a copy thereof, certified to be in conformity with the notifications, to all the other Contracting Parties, at the same time informing them of the date on which he received it.

The denunciation shall come into force only in respect of the High Contracting Party which shall have notified it and one year after such notification shall have reached the Secretary-General of the League of Nations.

The denunciation of the Protocol on Arbitration Clauses shall entail, *ipso facto*, the denunciation of the present Convention.

Article 10.—The present Convention does not apply to the Colonies, Protectorates or territories under suzerainty or mandate of any High Contracting Party unless they are specially mentioned.

The application of this Convention to one or more of such Colonies, Protectorates or territories to which the Protocol on Arbitration Clauses opened at Geneva on September 24th, 1923, applies, can be effected at any time by means of a declaration addressed to the Secretary-General of the League of Nations by one of the High Contracting Parties.

Such declaration shall take effect three months after the deposit thereof.

The High Contracting Parties can at any time denounce the Convention for all or any of the Colonies, Protectorates or territories referred to above. Article 9 hereof applies to such denunciation.

Article 11.—A certified copy of the present Convention shall be transmitted by the Secretary-General of the League of Nations to every Member of the League of Nations and to every non-Member State which signs the same.

THE INDIAN FINANCE ACT, 1937.[1]

[31st March, 1937.]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the excise duty on sugar leviable under the Sugar (Excise Duty) Act, 1934, to vary certain duties leviable under the Indian Tariff Act, 1934, to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the excise duty on
XIV of 1934. sugar leviable under the Sugar (Excise Duty) Act, 1934, to vary certain duties

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[1] This Act was made by the Governor General under the provisions of s. 67B of the Govt. of India Act. No number was given.
For Statement of Objects and Reasons, *see* Gazette of India, 1937, Pt. V, pp. 107-108.

XXXII of 1934. XVIII of 1930. VI of 1898. leviable under the Indian Tariff Act, 1934, to vary the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax, It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Finance Act, 1937. Short title and extent.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

XII of 1882. **2.** The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the [1][Central Government] to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India [2]* * * be construed as if, for the year beginning on the 1st day of April, 1937, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section. Fixation of salt duty.

XIV of 1934. [3]**3.** In sub-section (2) of section 3 of the Sugar (Excise Duty) Act, 1934,— Amendment of section 3, Act XIV of 1934.

(*a*) in clause (*i*), for the words "ten annas" the words "one rupee and five annas" shall be substituted, and

(*b*) in clause (*ii*), for the words "one rupee and five annas" the words "two rupees" shall be substituted.

XXXII of 1934. [3]**4.** In the First Schedule to the Indian Tariff Act, 1934,— Amendment of the First Schedule to Act XXXII of 1934.

(*a*) in Item No. 17, for the words and figures "Rs. 9-1 per cwt." in the fourth column the following words and figures shall be substituted, namely —

"the rate at which excise duty is for the time being leviable on sugar, other than *khandsari* or palmyra sugar, produced in British India *plus* Rs. 7-4 per cwt.";

(*b*) in Items Nos. 61 (2) and 62 (1), for the words "two annas per ounce" in the fourth column the words "three annas per ounce" shall be substituted.

XVIII of 1930. [3]**5.** In sub-section (*1*) of section 3 of the Silver (Excise Duty) Act, 1930, for the words "two annas" the words "three annas" shall be substituted. Amendment of section 3, Act XVIII of 1930.

6. For the year beginning on the 1st day of April, 1937, the Schedule contained in the Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act. VI of 1898. Inland Postage rates.

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[1] Subs by the A. O. for "G G. in C."
[2] The words "other than Burma or Aden" rep. by the A. O.
[3] This section came into effect on the 28th February, 1937, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931)

Income-tax and super-tax.

7. *(1)* Income-tax for the year beginning on the 1st day of April, 1937, shall be charged at rates applicable to the total income of each assessee the same, and increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1936.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1937, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the same rates, increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1936. XI of 1922.

(3) For the purposes of sub-section *(1)* " total income " means total income as determined in accordance with the provisions of the Indian Income-tax Act, 1922. XI of 1922.

THE SCHEDULE.

Schedule to be inserted in the Indian Post Office Act, 1898.

(*See* section 6.)

" THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

(*See* section 7.)

Letters.

For a weight not exceeding one tola	One anna.
For every tola, or fraction thereof, exceeding one tola	Half an anna.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Book, Pattern and Sample Packets.

For the first two and a half tolas or fraction thereof	Six pies.
For every additional two and a half tolas, or fraction thereof, in excess of two and a half tolas	Three pies.

Registered Newspapers.

For a weight not exceeding ten tolas	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.

Parcels.

For a weight not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas."

THE HINDU WOMEN'S RIGHTS TO PROPERTY ACT, 1937.

ACT No. XVIII OF 1937.[1]

[14th April, 1937.]

An Act to amend the Hindu Law governing Hindu Women's Rights to Property.

WHEREAS it is expedient to amend the Hindu Law to give better rights to women in respect of property; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Hindu Women's Rights to Property Act, 1937. Short title and extent.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas but excluding Burma.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, the provisions of section 3 shall apply where a Hindu dies intestate leaving a widow. Application.

3. (*1*) When a Hindu governed by the Dayabhag school of Hindu Law dies intestate his property, and when a Hindu governed by any other school of Hindu Law or by customary law dies intestate leaving separate property that separate property shall, subject to the provisions of sub-section (*3*), devolve upon his widow along with his lineal descendants, if any, in like manner as it devolves upon a son: Devolution of property.

Provided that the widow of a predeceased son shall inherit in like manner as a son if there is no son surviving of such predeceased son, and shall inherit in like manner as a son's son if there is surviving a son or son's son of such predeceased son.

Provided further that the same provision shall apply *mutatis mutandis* to the widow of a predeceased son of a predeceased son

(*2*) When a Hindu governed by any school of Hindu Law other than the Dayabhag school or by customary law dies intestate having at the time of his death an interest in a Hindu joint family property, his widow shall, subject to the provisions of sub-section (*3*), have in the property the same interest as he himself had.

(*3*) Any interest devolving on a Hindu widow under the provisions of this section shall be the limited interest known as a Hindu woman's estate, provided however that she shall have the same right of claiming partition as a male owner.

(*4*) The provisions of this section shall not apply to an estate which by a customary or other rule of succession descends to a single heir or to any property to which the Indian Succession Act, 1925, applies. XXXIX of 1925.

4. Nothing in this Act shall apply to the property of any Hindu dying intestate before the commencement of this Act. Savings.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1935, Pt. V, p. 131; and for Report of Select Committee, *see ibid.*, 1937, Pt. V, p. 5.

THE ARYA MARRIAGE VALIDATION ACT, 1937.

ACT No. XIX OF 1937.[1]

[*14th April, 1937.*]

An Act to recognise and remove doubts as to the validity of inter-marriages current among Arya Samajists.

WHEREAS it is expedient to recognise and place beyond doubt the validity of inter-marriages of a class of Hindus known as Arya Samajists; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Arya Marriage Validation Act, 1937.

(*2*) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas, and applies also to all subjects of His Majesty, within other parts of India, and to all Indian subjects of His Majesty without and beyond British India.

Marriage between Arya Samajists not to be invalid

2. Notwithstanding any provision of Hindu law, usage or custom to the contrary no marriage contracted whether before or after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid or shall be deemed ever to have been invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that either or both of the parties at any time before the marriage belonged to a religion other than Hinduism.

THE PETROLEUM (BERAR EXTENSION) ACT, 1937.

ACT No. XXIII OF 1937.[2]

[*7th October, 1937.*]

An Act to extend the Petroleum Act, 1934, to Berar.

WHEREAS in Berar the importation, possession and transport of petroleum and other substances are regulated by the Indian Petroleum Act, 1899, VIII of 1899
as applied to Berar by order made under the Indian (Foreign Jurisdiction) Order in Council, 1902;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1935, Pt. V, p. 132; and for Report of Select Committee, *see ibid*, 1936, Pt. V, p. 306.
[2] For Statement of Objects and Reasons, *see* Gazette of India, 1937, Pt. V, p. 132.

VIII of 1899. XXX of 1934. AND WHEREAS the Indian Petroleum Act, 1899, was repealed in British India by, and was replaced by, the Petroleum Act, 1934, by which Act the import, transport, storage, production, refining and blending of petroleum and other inflammable substances are now regulated in the whole of British India except Berar,

VIII of 1899. XXX of 1934. AND WHEREAS it is expedient that the Indian Petroleum Act, 1899, in its application to Berar should be repealed and that the Petroleum Act, 1934, should be extended to Berar;

It is hereby enacted as follows:—

1. This Act may be called the Petroleum (Berar Extension) Act, 1937. Short title

VIII of 1899. XXX of 1934. **2.** The Indian Petroleum Act, 1899, as in force in Berar, is hereby repealed, and the Petroleum Act, 1934, is hereby extended to and declared to be in force in Berar. Repeal in Berar of Act VIII of 1899 and extension of Act XXX of 1934

XXX of 1934. **3.** Rules made and notifications issued under the Petroleum Act, 1934, and in force in British India at the commencement of this Act are hereby extended to and declared to be in force in Berar. Operation of rules.

THE RULES AND REGULATIONS CONTINUANCE ACT, 1937.

ACT NO. XXIV OF 1937.[1]

[*7th October, 1937.*]

An Act to provide for the continuance in force of certain rules and regulations.

IX of 1910. V of 1923. WHEREAS it is expedient to provide for the continuance in force of certain rules made under the Indian Electricity Act, 1910, and certain regulations made under the Indian Boilers Act, 1923, It is hereby enacted as follows:—

1. This Act may be called the Rules and Regulations Continuance Act, 1937. Short title.

IX of 1910. V of 1923. X of 1937. XI of 1937. **2.** Rules made before the 31st day of March, 1937, under section 37 of the Indian Electricity Act, 1910, and regulations made before the 28th day of March, 1937, under section 28 of the Indian Boilers Act, 1923, by the Governor General in Council shall, on and from the said dates respectively, be deemed to have been made under the said sections of the said Acts by the authority substituted for the Governor General in Council by the Indian Electricity (Amendment) Act, 1937, and the Indian Boilers (Amendment) Act, 1937, respectively, and shall continue to be in force until superseded by rules or regulations made under the said sections of the said Acts by the Central Electricity Board or the Central Boilers Board, as the case may be. Continuance in force of rules and regulations made under Act IX of 1910 and Act V of 1923.

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[1] For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, p. 130.

THE FEDERAL COURT ACT, 1937.

ACT No. XXV OF 1937.[1]

[*7th October, 1937.*]

An Act to empower the Federal Court to make rules for regulating the service of processes issued by the Court.

WHEREAS it is expedient to confer upon the Federal Court a supplemental power which is necessary for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under the Government of India Act, 1935; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Federal Court Act, 1937.

Power of Federal Court to make rules.

2. The Federal Court may make rules for regulating the service of processes issued by the Court, including rules requiring a High Court from which an appeal has been preferred to the Federal Court to serve any process issued by the Federal Court in connection with that appeal.

THE MUSLIM PERSONAL LAW (*SHARIAT*) APPLICATION ACT, 1937.

ACT No. XXVI OF 1937.[2]

[*7th October, 1937.*]

An Act to make provision for the application of the Muslim Personal Law (*Shariat*) to Muslims in British India.

WHEREAS it is expedient to make provision for the application of the Muslim Personal Law (*Shariat*) to Muslims in British India; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Muslim Personal Law (*Shariat*) Application Act, 1937.

(*2*) It extends to the whole of British India excluding the North-West Frontier Province.[3]

2. Notwithstanding any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including *talaq, ila, zihar, lian, khula* and *mubaraat*, maintenance, dower, guardianship, gifts, trusts and trust properties, and *wakfs* (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (*Shariat*) Application of Personal Law to Muslims.

3. (*1*) Any person who satisfies the prescribed authority— Power to make a declaration.

(*a*) that he is a Muslim, and

(*b*) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872, and X of 1872.

(*c*) that he is a resident of British India,

may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of this Act, and thereafter the provisions of section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to the matters enumerated therein adoption, wills and legacies were also specified.

(*2*) Where the prescribed authority refuses to accept a declaration under sub-section (*1*), the person desiring to make the same may appeal to such officer as the Provincial Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.

4. (*1*) The Provincial Government may make rules to carry into effect the purposes of this Act. Rule-making power.

(*2*) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(*a*) for prescribing the authority before whom and the form in which declarations under this Act shall be made,

(*b*) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act, and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.

(*3*) Rules made under the provisions of this section shall be published in the Official Gazette and shall thereupon have effect as if enacted in this Act.

5. The District Judge may, on petition made by a Muslim married woman, dissolve a marriage on any ground recognised by Muslim Personal Law (*Shariat*). Dissolution of marriage by Court in certain circumstances.

Repeals.

6. Provisions of the Acts and Regulations mentioned below shall be repealed in so far as they are inconsistent with the provisions of this Act, namely :—

(1) Section 26 of the Bombay Regulation IV of 1827 ;

(2) Section 16 of the Madras Civil Courts Act, 1873 ; III of 1873.

(3) Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887 ; XII of 1887.

(4) Section 3 of the Oudh Laws Act, 1876 ; XVIII of 1876.

(5) Section 5 of the Punjab Laws Act, 1872 ; IV of 1872.

(6) Section 5 of the Central Provinces Laws Act, 1875 ; and XX of 1875.

(7) Section 4 of the Ajmere Laws Regulation, 1877. Reg. III of 1877.

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